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60TH ANNUAL REPORT
OF THE
INTERSTATE COMMERCE
COMMISSION



NOVEMBER 1, 1946



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1946

INTERSTATE COMMERCE COMMISSION

GEORGE M. BARNARD, *Chairman*

CLYDE B. AITCHISON

CLAUDE R. PORTER ¹

WILLIAM E. LEE

CHARLES D. MAHAFFIE

CARROLL MILLER

WALTER M. W. SPLAWN

JOHN L. ROGERS

J. HADEN ALLDREDGE

WILLIAM J. PATTERSON

J. MONROE JOHNSON

W. P. BARTEL, *Secretary.*

¹ Commissioner Porter died on August 17, 1946.

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TABLE OF CONTENTS

(For details see index)

SPECIAL SUBJECTS

	Page
Accidents.....	48
Rail.....	48
Motor.....	50
Administrative Procedure Act.....	57
Admissions to practice.....	56
Brokers of motor carrier transportation.....	46
Bus fares and charges.....	45
Class rate and classification investigations.....	29
Commodities in bulk—water carriers.....	35
Electronics in transportation.....	51
Emergency water service.....	34
Freight forwarder utilization of motor common carrier services.....	47
Government operation of carriers.....	14
Increased railway rates, fares, and charges, 1946.....	27
Intrastate rate cases.....	32
Investigations.....	31
Laws relating to railroad labor.....	52
Legislative recommendations.....	120
Pick up and delivery service.....	40
Progress of railroad reorganizations.....	21
Protective service and car owning companies.....	40
Railroad car shortages.....	15
Railroad operation and control of motor carriers of property.....	43
Railroad sleeping car service.....	37
Rate bureaus and conferences.....	53
Reduction of funded debt and fixed interest charges.....	19
Small shipments.....	38
Spotting services at industrial plants.....	42
Standard time zone investigation.....	54
Traffic and earnings of transport agencies.....	6
Transportation during the year.....	1
Voluntary reorganizations.....	24
Water competitive rail rates.....	32
Work of the legislative committee.....	59

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	Page
Accounts.....	60
Finance.....	61
Formal Cases.....	64
Informal Cases.....	65
Inquiry.....	65
Law.....	69
Locomotive Inspection.....	87
Motor Carriers.....	92
Safety.....	103
Service.....	109
Traffic.....	111
Transport Economics and Statistics.....	113
Valuation.....	115
Water Carriers and Freight Forwarders.....	116

REPORT OF THE INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C., *November 2, 1946.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its sixtieth annual report to the Congress. The period covered by this report extends from November 1, 1945, to October 31, 1946, except as otherwise noted.

A statement of appropriations and aggregate expenditures for the fiscal year ended June 30, 1946, is contained in appendix F to this report.

TRANSPORTATION DURING THE YEAR

In our annual report last year we reviewed the vital war performance of the agencies of transportation, noted lessons of the war experience, and directed attention to the varied conditions and problems which carriers, shippers, and others then were facing. The domestic situation, we stated, "abounds in uncertainties." The course of events in the present year has shown that this was a substantial understatement. Forces pent up during the war began to test their strength as soon as the Nation turned its wartime efforts to a normal competitive economy, and were met by resistant forces. The effects of these contests for new economic alignments have brought to us, in a number of forms, issues both novel and difficult, and of a complexity rarely, if ever before, equalled.

These problems are part and parcel of the readjustments affecting all phases of our national life in consequence of a world war. By no means are they the result of unfavorable economic developments alone. The fact that industrial production this year has risen to a level substantially higher than in any year prior to 1941 indicates a high order of accomplishment by management and labor in many industries. Apparently, the volume of agricultural production for this year will not fall much below any figure previously recorded. On the other hand, the record for the year is strewn with interruptions of industrial production and of transportation operations which in many instances have been prolonged and costly. Prices for materials and labor have

advanced irregularly but materially, causing widespread uncertainty as to their future course and anxiety as to future repercussions on the part of those who are concerned with the national economy.

The first major postwar strike kept a large unit of the automobile industry idle from November 1945 to the spring of 1946. Later there were numerous strikes in this industry, which contributed to its failure to gain its expected stride. The lost production of new motor equipment and replacement parts for existing vehicles had a serious effect on the business of motor carriers. A Nation-wide steel strike which lasted for several weeks in midwinter upset the production schedules of many dependent industries. The strike of bituminous coal miners in April and May curbed industrial production and necessitated drastic reductions in rail service. Many other work stoppages were of more limited individual scope, but all were important factors in the confused industrial economy. At the present time the possibility of a recurrence of this cycle is a matter of grave concern.

It is not for us to pass judgment on the merits of these controversies, but we have mentioned them to call attention to their far-reaching and profound effects on transportation. Costly adjustments of operations by rail, motor, water, and other carriers were necessary while production was at a standstill; when it was resumed, traffic was concentrated in a short period with impairment of efficient and economical use of transportation facilities. We refer elsewhere to emergency service orders which we were forced to enter during the year to cope with these conditions, and to the abnormal burdens which will be thrown on the railroads during the coming winter. The increased costs of materials required by carriers are also referred to in another part of this report.

Responsibilities placed on us call for comments at some length on interruptions in transportation. During the year nearly every branch of transportation has experienced labor problems of almost unprecedented magnitude. Dissatisfaction on the part of two railroad operating brotherhoods with the recommendations of an emergency board appointed under the Railway Labor Act had the effect of dramatically halting substantially all railroad operations on May 23. Few persons had expected that such a situation would eventuate, for nothing of the kind had been experienced since 1888. Carriers by water and motor vehicle were utilized to ease the immediate situation, but the productive activities of the country were seriously threatened. The jeopardy to the Nation was so great that on May 17 the President assumed control of 337 railroads. Plans for dealing vigorously with the situation were immediately initiated but not put to a real test,

because of the early termination of the strike. A compromise settlement led to a resumption of service on May 25 after 2 days of great confusion and almost complete absence of rail service, and on the following day the President returned the railroads to their owners.

Coastwise and intercoastal water carriers in the past year have had few breathing spells between strikes by their waterfront and vessel employees. These conditions have been particularly burdensome for such carriers at a time when they have not yet been able to reestablish operations suspended during the war. A strike also took place against bulk carriers on the Great Lakes. Labor conditions in water transportation generally continue to be unsettled and critical.

Motor transportation, particularly in respect of property, was also adversely affected by numerous strikes during the year. In a wide area west of the Mississippi River the operations of many carriers were at a standstill for several months. Strikes in the strategic New York City district kept local carriers and over-the-road operations to and from that district idle for several weeks.

The serious effect on the public welfare of such suspensions of service, particularly where substitute forms of transportation are not adequate, is self-evident. Temporary remedies and expedients of a regulatory agency, such as our service orders and other remedial measures described elsewhere in this report, necessarily afford only a limited amount of relief. We believe that the public interest requires a careful new appraisal of the possibility of avoiding strikes in transportation without unduly trespassing on the rights of contending groups. The problem is not one which can be solved entirely by additional legislation; a large share of responsibility necessarily rests on carrier management and the leaders of organized labor. Any new legislative remedy which may be found necessary should encourage and implement efforts on the part of these groups to work together in what is basically a common cause.

An ascending spiral of wages and material prices, together with a heavy tax burden, inevitably leads to demands for higher transportation rates, for other means of offsetting these increasing costs are yet to be found. Railroads, motor carriers of property, water carriers, the Railway Express Agency, and the freight forwarders have therefore sought to shift the burden in whole or in part to the shipping public. As pointed out in our last report, transportation service during the war was relatively cheap in comparison with the general price level of commodities and services. However, this circumstance does not obscure the serious implications in a substantial increase in transportation charges at the present time. General increases of considerable magnitude, together with attendant changes in individual

rate adjustments, are certain to have far-reaching effects on the distribution of commodities in which producers, distributors, and consumers in all sections are vitally interested. The factor of competition in such a situation poses for us many novel and difficult problems involving relations between carriers and their patrons, between territorial regions, between carriers of the same type, and between competing carrier groups of different types. These questions seem likely to engage our attention for a considerable time.

The large volume of traffic during the war and concentration on military success necessarily lessened the play of competition among carriers. At the same time thought was being given by these agencies to means of attracting for themselves the largest possible share of the anticipated sizable volume of traffic in the reconversion period. The competitive impulse is as strong as ever, and is already manifesting itself in various ways. Examples in the field of rail transportation are the acquisition of much new passenger equipment of modern design and the speeding up of passenger and merchandise schedules. War-built airplanes are being adapted to commercial air service, both regulated and unregulated. The uncertain outlook as to earning power and inability to obtain deliveries, however, have limited installations of new rail freight and passenger equipment to a figure lower than was expected and considered necessary a year ago. Consequently, great difficulty has been encountered in handling traffic, which, measured by carloadings, in some recent weeks has exceeded that of corresponding weeks in the war years, 1944 and 1945. The railroads have faith in their future, but many plans involving substantial expenditures for rehabilitation and modernization of facilities in the early postwar period have been set aside, at least temporarily.

Motor carriers of property face much the same condition. For them the year as a whole has been very difficult. Their volume of traffic in recent months has approached the level of the war years, but marked changes in the sources and kinds of traffic available have occurred in some instances. The needs for new motor equipment, noted as substantial in our last report, have been met only in part by the manufacturers. Rising operating costs, prevailing uncertainties, and higher prices of new vehicles have caused some carriers, however, to defer their plans for the purchase of new equipment. This situation has contributed to a shortage of repair parts, which has become as serious as it was during the war. Motor carriers will reduce their operating costs when they can reequip themselves more generally. War restrictions on operations have been lifted, but certain State limitations on the use of vehicles have been reimposed. The return of private automobiles to more general use on streets and highways has

added to carriers' operating difficulties, and the shortened workweek observed in some localities has resulted in increased costs, as it has in the case of the railroads. Motor carriers have made efforts in various ways to hold their costs in check. The larger common carriers of general freight appear generally to be in the least favorable financial situation. Some of them have sought to reduce the scope of their services by withdrawing from interline arrangements, by abandoning or selling unprofitable lines, by curtailing service of smaller communities, or by certain restrictions on the kinds of traffic carried. In other instances entire operations have been abandoned. There has been, in contrast, a very substantial volume of applications for new operating rights, many of which are by veterans of the late war. The increases in rates which we have permitted have proved beneficial, but many motor carriers must continue to cope with difficult conditions.

Motor carriers of passengers also have experienced higher costs during the year. Their volume of traffic has declined, but, with the exception of lines which served war industries, it remains at a high level. The rate of delivery of new equipment during the year has fallen below expectations. An investigation of bus fares instituted on our own motion is discussed at page 45.

No other branch of transportation has faced such difficult problems of postwar readjustment as water carriers. Plans for reinstituting intercoastal, coastwise, and Great Lakes operations suspended during the war have been thwarted by a combination of adverse circumstances. As noted elsewhere, private operators in many instances are doubtful of their ability to continue successfully the limited operations now being conducted for account of the United States Maritime Commission. Carriers in other trades also have higher costs and other difficulties with which to contend. Water-carrier organizations have requested a general increase in water rates and have joined the Maritime Commission in asking us to investigate the reasonableness of certain competitive rail and motor rates. This question is under consideration in our docket *Ex Parte* No. 164.

In April 1944 we began an investigation under section 304 (b) of the Interstate Commerce Act concerning the effect of the war on water carriers, the exemption provisions of part III of the act, and other related matters. A report of this study, conducted by our staff, will shortly be released for the consideration of interested parties. Subsequently we shall make such legislative recommendations, if any, as may be found desirable. This investigation is mentioned in another connection at page 36.

The traffic of oil pipe lines which report to us declined moderately from 1944 to 1945; in the first 9 months of 1946 these lines transported 7

percent less traffic than they did in the same period of 1945, and earned about 6 percent less revenue. The tendency of their rates has been downward. Certain war-built lines are no longer in operation, and no disposition has been made of the two large-diameter Government-owned lines, which have been unused for approximately a year. Additional pipe lines have been laid during the year or are under construction. Extensions of natural gas lines also have been made in the past year, and other extensions are under consideration by the Federal Power Commission. All these lines impose problems of adjustment on rail, motor, and water carriers.

The earnings of freight forwarders in 1945 were higher than in 1944, and the same was true in the first 6 months of 1946 compared with the corresponding period of 1945. Their request for increased rates and our investigation of the charges paid by the forwarders for motor-carrier service are discussed elsewhere.

The costs of operation of the Railway Express Agency, Inc., consisting largely of terminal labor costs, have risen materially, with resulting reductions in the payments made to railroads for services which the latter render. These reductions are of very serious proportions in some instances. The Agency's application for increased rates has been granted.

The year has seen further steps in the disposition of the affairs of the Pullman Co., but, as stated in another section of this report, that company continues to conduct the sleeping-car business of the country pending termination of the antitrust litigation between the Government and the Pullman interests. A considerable amount of new sleeping-car equipment has been acquired by individual railroads during the year.

TRAFFIC AND EARNINGS OF TRANSPORT AGENCIES

For the 12 months ended June 30, 1946, the operating revenues of carriers subject to the Interstate Commerce Act aggregated approximately \$11,485,874,000 or 87.97 percent of the \$13,056,147,000 shown in the record year ended December 31, 1944.

Despite the end of the war in August 1945, it will be noted from the table below that the revenues of all the carriers for that calendar year were 96.75 percent of the total for the preceding year.

Although the fiscal year ended June 30, 1946, was substantially a year of conversion from wartime to peacetime traffic, the revenues of five of the eight types of transport subject to our regulation actually showed increases over the war year 1944. However, the increases for the Pullman Co. and motor carriers of passengers were insignificant. The most severe decline in revenues was shown by the steam railways,

17.5 percent, but the electric-railway and pipe-line revenues were only 5.8 and 7.3 percent below those of the calendar year 1944. As compared with that year, both the Railway Express Agency and the water lines were able to improve their position appreciably in the 12 months ended June 30, 1946.

Operating revenues¹

Class of carrier	12 months ended June 30, 1946		Year ended Dec. 31, 1945		Year ended Dec. 31, 1944— amount]
	Amount	Percent of calendar year 1944	Amount	Percent of calendar year 1944	
	<i>Thousands</i>		<i>Thousands</i>		<i>Thousands</i>
Steam railways ²	\$7,986,231	82.54	\$9,135,538	94.42	\$9,675,560
Railway Express Agency ³	306,067	120.15	284,428	111.66	254,734
Pullman Co.....	146,722	100.11	147,856	100.89	146,555
Electric railways.....	94,143	94.23	96,172	96.26	99,910
Water lines.....	192,480	102.18	172,716	91.69	188,370
Pipe lines (oil).....	287,665	92.74	303,699	97.91	310,194
Motor carriers of passengers.....	630,043	100.89	626,582	100.34	624,459
Motor carriers of property.....	1,842,523	104.90	1,864,780	106.17	1,756,375
Grand total.....	11,485,874	87.97	12,631,771	96.75	13,056,157

¹ Partially estimated for small carriers. Some of the 1944 figures as given in the 59th annual report have been revised.

² Includes switching and terminal companies.

³ After deduction of payments to others for express privileges.

The private car lines and freight forwarders reporting to us are not included in the above table. For the companies making quarterly reports the operating revenues of private car lines amounted to \$124,180,992 for the fiscal year 1946 and those of freight forwarders \$38,865,061 for the same period.

In the final year of the war the total volume of intercity freight transportation declined, but the volume of intercity passenger traffic increased. The estimated total of 1,013 billion ton-miles for the calendar year 1945 was 6.1 percent below the figure of the preceding year, but the 306 billion passenger-miles estimated for intercity passenger traffic were 9.3 percent higher than in 1944. Both ton-miles and passenger-miles produced by railways showed decreases in 1945, and similar declines were recorded for the inland waterways, including the Great Lakes. On the other hand, highway traffic, both by private automobiles and for hire, increased. Estimated pipe-line ton-miles fell off 6.8 percent, or a little less than the 7.5 percent decline in railway ton-miles. The largest percentage increase in traffic was 54.9 percent for air passenger-miles, although the percentage of passenger-miles produced by this type of transportation is estimated to account for only 1.15 percent of the total for all types of transport in 1945.

Relatively, the inland waterways and motor carriers of property

somewhat improved their ton-mile position in 1945 at the expense of the railways and the pipe lines. However, the relative changes are in no case very large. Relatively also, the railways, motor carriers of passengers, and the inland waterways lost ground to the private passenger automobile and air transport. Because of the small proportions of the total passenger-miles produced by motor carriers of passengers and the air lines, the relative loss in rail passenger-miles is attributable chiefly to the estimated increase in the passenger-miles produced by private automobiles.

Volume of intercity traffic, public and private, by kinds of transportation

Agency	Ton-miles				Passenger-miles			
	1944 ¹	1945	Percent of grand total		1944 ¹	1945	Percent of grand total	
			1944	1945			1944	1945
1. Railways, steam and electric, including express and mail.....	Millions 747, 168	Millions 690, 991	69.25	68.23	Millions 97, 704	Millions 93, 817	34.90	30.66
2. Highways:								
Motor carriers of passengers.....					26, 548	26, 813	9.48	8.76
Private automobiles.....					151, 251	179, 837	54.03	58.76
Motor carriers of property.....	49, 308	55, 619	4.57	5.49				
Total.....	49, 308	55, 619	4.57	5.49	177, 799	206, 650	63.51	67.52
3. Inland waterways including Great Lakes.....	150, 112	142, 756	13.91	14.10	2, 187	2, 056	.78	.67
4. Pipe lines (oil).....	132, 336	123, 293	12.26	12.17				
5. Airways (domestic revenue service) including express and mail.....	71	91	.01	.01	2, 264	3, 507	.81	1.15
Grand total.....	1, 078, 995	1, 012, 750	100.00	100.00	279, 954	306, 030	100.00	100.00

¹ Some of the 1944 figures as given in the 59th annual report have been revised.

SOURCES:

1. Interstate Commerce Commission reports: Electric railway ton-miles and passenger-miles estimated on the basis of revenues. Mail ton-miles from Post Office Department are for fiscal years ended June 30.
2. Highway ton-miles for 1945 estimated on the basis of the rate of change in total ton-miles estimated by the Public Roads Administration, excludes "rural to rural" traffic. Bus passenger-miles estimated for small carriers on the basis of passenger revenue. Passenger-miles of private automobiles in 1945 estimated on the basis of the rate of change in total automobile passenger-miles estimated by the National Safety Council.
3. Waterway ton-miles from Office of Chief of Engineers, U. S. Army. Waterway passenger-miles in 1945 estimated on the basis of the rate of change from 1944 in the passenger revenue.
4. Includes an estimate for nonreporting pipe lines including "Big Inch" and "Little Inch." Includes refined as well as crude oil with an allowance for crude oil gathering lines.
5. Civil Aeronautics Board.

The all-time peak in the physical performance of the railways was reached in 1944. The war with Germany ended in April 1945 and that with Japan in August. The result was a decline in every physical performance indicator in that calendar year as compared with 1944. These decreases ranged from 1.07 percent in the case of tons of revenue freight per train to 7.62 percent in revenue ton-miles. Between the first 6 months of 1945 and 1946, however, the declines in the various performance factors were much sharper. Not only do these periods represent a comparison of 6 months of wartime with 6 months of peacetime traffic, but railroad performance in the latter period was adversely affected by extensive and prolonged strikes in important industries, shortages of materials, and other reconversion

difficulties. Revenue ton-miles declined more than 25 percent and revenue passenger-miles by 19 percent. Ton-miles and passenger-miles per mile of road fell by approximately the same percentages, respectively. The average load per train and per car in both freight and passenger services also dropped sharply. Although the average length of haul per road for revenue freight decreased by slightly over 6 percent, the average journey per passenger per road declined by nearly 11 percent.

Railway performance changes

Item	All railways		Class I line-haul railways first half of 1946	
	1945	Percent 1945 under 1944	1946	Percent 1946 under 1945
Tons of revenue freight originated (thousands).....	1,493,314	4.57	(1)	-----
Revenue ton-miles (thousands).....	684,148,448	7.62	272,359,422	25.32
Ton-miles of revenue freight per car-mile ²	30.18	1.44	28.52	6.03
Ton-miles of revenue freight per train-mile.....	1,034.49	1.07	973	9.66
Average length of haul revenue freight.....	³ 458.14	3.20	⁴ 232.3	6.07
Revenue ton-miles per mile of road.....	2,852,615	7.51	1,200,879	25.14
Number of revenue passengers (thousands).....	897,384	2.01	399,028	9.08
Total passenger-miles (thousands).....	91,826,353	4.01	35,072,531	19.01
Average journey per passenger (per road).....	102.33	2.04	87.9	10.94
Average revenue passenger-miles per train-mile.....	190	5.00	153.8	17.04
Average revenue passenger-miles per car-mile (class I).....	30	6.25	25.6	16.07
Revenue passenger-miles per mile of road (class I) ⁵	408,333	3.92	217,013	18.99

¹ Not available.

² This average is obtained by dividing the revenue ton-miles by the total loaded car-miles, the latter figure including some cars loaded with nonrevenue freight.

³ All railways as a system.

⁴ Average haul per road.

⁵ Based on mileage operated in passenger service only.

World War II came to an end a few weeks after the close of the fiscal year ending June 30, 1945. With this qualification, the financial results of the operations of class I line-haul steam railways for the 12 months ended June 30, 1946, are those of the first postwar year. In terms of revenues the results were somewhat better than those which had been anticipated by many at the beginning of that period. The revenues of \$7,782 million for the fiscal year were only about 13 percent below the \$8,902 million produced in the calendar year 1945 and were not quite 18 percent below the all-time revenue record of \$9,437 million shown in 1944. Also, as may be noted from the accompanying table, the revenue total for the 12 months ended in June 1946 was \$316 million higher than the total for the calendar year 1942, the first full year of World War II. Despite the somewhat better revenue showing for the year ending in June 1946 as compared with the calendar year 1942, the earnings of the roads were drastically lower. The net railway operating income, \$455 million in the later year, was only 30.64 percent of the \$1,485 million earned in the calendar year 1942, and the \$75 million net

income of the 1946 fiscal year only 8.31 percent of the \$902 million in the earlier calendar year. This abrupt change in the earning power of the roads between these two periods, despite some improvement in revenues, is attributable to a sharp rise in operating expenses resulting chiefly from increases in labor and material costs, although the results in question are also affected significantly by the amortization of defense projects, as is indicated below.

In the 1946 fiscal period the roads reported operating expenses of \$6,943 million or about 51 percent more than in 1942. However, this figure includes \$711 million representing amortization of defense projects charged to operating expenses in the 12 months ending in June 1946, as compared with only \$92 million charged for that purpose in the calendar year 1942. If these amounts are excluded in both years, the operating expenses for the 12 months ending June 30, 1946, would aggregate \$6,232 million as compared with \$4,509 million for 1942. The increase in operating expenses between these two periods, excluding amortization, therefore, was \$1,723 million, or 38.21 percent. Expressed in another way, the operating ratio, excluding amortization, in the two periods was 60.39 percent in 1942 and 80.08 percent for the 12 months ending June 30, 1946.

But for a combination of factors involved in wage increases, taxes, and amortization, the net railway operating income and net income for the 1946 fiscal year would have been even lower than they were. The first 1946 wage increase of 16 cents per hour awarded in April was retroactive to January 1 of that year, and in consequence was applicable only to the last 6 months of the fiscal year ending June 30, 1946. An additional award of 2.5 cents per hour was made effective May 22, 1946. None of the increased labor costs represented by these wage increases, therefore, are reflected in the operating expenses of the first half of the 12-month period ending with June 1946. However, the total for amortization of defense projects, which was charged to operating expenses, greatly reduced the income of the railways which was subject to taxes. This was particularly true in the last 4 months of 1945 when the roads charged off \$594 million of accelerated amortization with concurrent tax credits of \$434 million. Had these unusual charges not been made, the net railway operating income for the fiscal year ending June 30, 1946, would have been \$615 million instead of \$455 million, and the net income \$235 million instead of \$75 million. Subsequent to January 1, 1946, tax accruals were also reduced because of the repeal of the excess-profits tax and by tax credits on account of carrybacks included in the returns for the last 6 months of the fiscal year under discussion. Altogether, as shown in the accompanying table, railway tax accruals for the 12

months ending in June 1946 were only \$231 million, or less than one-fifth those of the calendar year 1942.

Class I line-haul railways

Item	12 months ended with June 1946	Year ending December 31—			
		1945	1944	1943	1942
	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>
Railway operating revenues	\$7,782	\$8,902	\$9,437	\$9,055	\$7,466
Railway operating expenses	6,943	7,052	6,282	5,657	4,601
Operating ratio	89.21	79.21	66.57	62.48	61.63
Railway tax accruals	\$231	\$824	\$1,846	\$1,849	\$1,199
Net railway operating income	455	852	1,106	1,360	1,485
Fixed interest on funded debt	1,354	365	395	422	2,461
Net income	75	450	667	873	902
Federal income and excess profits taxes	273	306	1,304	1,335	756
Net railway operating income before provision for Federal income and excess profits taxes	181	1,158	2,410	2,695	2,241
Net income before provision for Federal income and excess profits taxes	198	756	1,971	2,208	1,658
Amortization of defense projects—Road and equipment (charged to operating expenses)	711	825	191	146	92

¹ Partly estimated.

² Included \$25 millions interest on overdue installments of interest on certain mortgage bonds and other obligations of the Seaboard Air Line Ry. from dates when interest was first defaulted.

³ Deficit or other reverse item.

As of July 31, 1946, the total current assets of class I railways amounted to \$3,758 million as compared with \$5,058 million on the same date in 1945, but the total current liabilities amounted to \$1,846 million and \$3,049 million as of the same dates, respectively. Therefore, the net working capital position of the railways declined from \$2,009 million in July 1945 to \$1,913 million in July 1946, or only 4.8 percent. In this connection attention is called to the fact that on December 31, 1941, the net working capital of class I railways was \$799 million, or 41.7 percent of the July 1946 figure. Material and supplies included in current assets amounted to \$460 million on December 31, 1941, and \$620 million on July 31, 1946, but the latter figure of course reflects a higher price level. If these amounts are excluded from net working capital, the December 31, 1941, figure would be only 26.2 percent of that on July 31, 1946.

Largely because of the cessation of hostilities in 1945, the \$7,979 million of revenues and other income of the class I railways for the fiscal year 1946 showed a decline of over \$1 billion from the corresponding figures for the calendar year 1945. Although there was also a decline of some \$200 million in costs of materials, depreciation, and other expenses, except wages and salaries, and a huge decline in taxes, the balance of \$4,410 million remaining for employees and investors after deduction of these two items was very much less than in any of the calendar years from 1942 to 1945, inclusive. Chiefly because of the 1946 wage increases, the \$3,758 million of wages and salaries chargeable to operating expenses for the fiscal year ended June 30, 1946,

were higher than in any of the calendar years 1942-45, leaving a balance of only \$652 million for investors, or 14.8 percent of the total. These latter figures may be compared with \$1,667 million for investors in the calendar year 1942, which represented 37.6 percent of the \$4,434 million available for investors and for wages and salaries in that year. If the amounts of pay-roll taxes which are included in the deductions for taxes were treated as an addition to wages and salaries, the wages and salaries proportion of the amounts available for employees and investors would be raised somewhat, and the percentage for investors would be correspondingly lower.

Condensed income account class I line-haul railways

Item	12 months ended June 30, 1946	Calendar year			
		1945	1944	1943	1942
	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>	<i>Millions</i>
Revenues and other income.....	\$7,979	\$9,107	\$9,648	\$9,256	\$7,648
Cost of materials, depreciation, and other expenses except wages and salaries.....	3,338	3,538	2,833	2,505	2,015
Taxes, including income, profits and pay roll.....	231	824	1,846	1,849	1,199
Total deductions.....	3,569	4,362	4,679	4,354	3,214
Remainder for employees and investors.....	4,410	4,745	4,969	4,902	4,434
Wages and salaries ¹	² 3,758	3,688	3,651	3,340	2,767
Investors' share:					
Rent for leased roads ³	125	142	159	167	185
Interest on obligations.....	² 390	400	432	450	494
Other deductions ⁴	² 61	65	60	72	86
For dividends and surplus.....	76	450	667	873	902
Percent wages and salaries.....	85.2	77.7	73.5	68.1	62.4
Percent investors' share.....	14.8	22.3	26.5	31.9	37.6

¹ Chargeable to operating expenses and not including pay-roll taxes as follows, in millions: 12 months ending June 30, 1946, \$240; 1945, \$231; 1944, \$231; 1943, \$212; 1942, \$171.

² Partly estimated.

³ Represents largely intercompany payments among railroads, frequently in the form of interest and dividends.

⁴ Miscellaneous deductions from income applicable to "other income" shown; contingent charges (capital and other funds); and amortization of discount on funded debt.

Based on operating averages for the first 7 months of each year, 1946 showed the third consecutive increase over 1943 in the proportions of cars and locomotives unserviceable. As shown in the accompanying table, this 1943 period showed the lowest average of unserviceable equipment of any corresponding period in the 4 years of the war and the first postwar year. In the first 7 months of the war years after 1942, there was some decline in the train-miles per train-hour of both freight and passenger trains arising, no doubt, from the heavy volume of war traffic. In the 1946 period, however, both these averages were higher than in any one of the war years excepting only 1942. After an increase of about 2.5 tons between 1942 and 1943, the average load per car (freight net ton-miles per loaded car-mile) has decreased consistently to a level which in 1946 was slightly lower than in 1942. The number of freight cars per train (freight car-miles per train-mile), after rising appreciably in 1944

and 1945 under the impact of the war traffic, declined in 1946 to the same level as that prevailing in both 1942 and 1943. The average number of passengers per car (passenger-miles per car-mile) rose sharply from only 21 in 1942 to 32.6 in 1944, but declined to 25.6 in 1946. Passenger car-miles per train-mile, however, stood at a higher level in 1946 than in any one of the war years, excepting only 1945.

Operating averages, class I steam railways

Average	7 months, January-July				
	1946	1945	1944	1943	1942
Freight net ton-miles per loaded car-mile.....	30.9	32.3	32.9	33.5	31.0
Freight car-miles per train-mile.....	51.5	52.8	52.9	51.5	51.5
Passenger miles per car-mile.....	¹ 25.6	30.6	32.6	30.5	21.0
Passenger car-miles per train-mile.....	9.64	9.70	9.62	9.22	8.24
Train-miles per train-hour:					
Freight train.....	16.1	15.7	15.7	15.4	16.1
Passenger train.....	35.3	34.6	34.8	34.7	36.1
Percent unserviceable:					
Freight cars.....	4.1	3.1	2.5	2.4	3.1
Locomotives:					
Yard switching.....	11.2	9.1	7.9	7.6	9.3
Road freight.....	16.5	13.1	12.3	11.7	13.9
Road passenger.....	15.7	13.7	13.0	11.9	15.0

¹ 6-months average.

The operating revenues of the 330 class I intercity and local or suburban motor carriers of passengers which filed quarterly reports with us in 1945 totaled \$501,265,840, or 0.3 percent more than the total for these carriers in 1944. Expenses advanced 7.1 percent, and net income, before provision for income taxes, declined from \$162,132,707 in 1944 to \$140,787,214 in 1945, or 13.2 percent. After income taxes, \$43,724,245 was left in 1945, as compared with \$47,131,819 in 1944. In the first quarter of 1946, with 363 carriers reporting, operating revenues increased 0.3 percent over the first quarter of 1945; expenses increased 8.9 percent, and net income, before income taxes, decreased 22.5 percent. Revenue passengers carried on intercity motor-carrier schedules, only, numbered 546,131,643 in the year 1945 compared with 891,127,614 passengers, including commutation passengers, carried in that year by class I steam railways. The average journey per intercity passenger is much shorter, however, by bus than by rail.

The 1,342 identical class I intercity motor carriers of property which included statistical information in quarterly reports filed with us in 1945 handled 103,926,217 tons of freight, as compared with 105,114,352 tons in 1944. This is a decrease of 1.1 percent, but tonnage of common carriers decreased only 0.1 percent, and tonnage of contract carriers decreased 6.8 percent. Tons carried by class I railroads declined 6 percent in the same period. In the first quarter of 1946, tons handled by 1,466 class I intercity motor carriers decreased

3.2 percent (common carriers, decrease, 2.4 percent; contract carriers, decrease, 7.5 percent); rail tons declined 11.5 percent. Freight revenues reported to us by 1,342 of the 1,384 reporting class I intercity motor carriers aggregated \$706,248,656 in 1945, or 10.8 percent of class I railway freight revenue. This percentage would be increased substantially if it were to include the revenues of all intercity motor carriers. The 1,342 class I motor carriers reported a net income, before income taxes, of \$1,222,522 in 1945 and, after income taxes, a deficit of \$2,745,872. These figures compare with nets of \$16,350,224 before and \$8,914,812 after income taxes in 1944.

GOVERNMENT OPERATION OF CARRIERS

Since our last report, labor disturbances have continued to interfere with complete utilization of the transportation plant. Interruptions and threatened interruptions to transportation operations prompted the President to direct the Director of the Office of Defense Transportation to take the transportation systems of certain carriers into the possession of the Government.

On November 21, 1945, the Capital Transit Co., operating in Washington, D. C., and environs, was taken into the possession of the Government. This carrier was operated under an arrangement whereby the management continued operations in the usual course of business. Federal possession and control of the transportation system of this carrier were relinquished on January 8, 1946.

The transportation system of the Illinois Central Railroad Co. which was taken into the possession of the Government on August 24, 1945, was returned to the owner on May 27, 1946.

The transportation system of The Great Lakes Towing Co. was taken into the possession of the Government on November 29, 1945. Operations were conducted until July 19, 1946, under an arrangement whereby the carrier assumed financial responsibility for the operation of its properties. Since that time the Office of Defense Transportation has been operating the properties. The labor dispute remains unsettled.

On February 6, 1946, the properties of 91 companies conducting towing and transportation operations in New York Harbor and contiguous waters were taken into possession of the Government. It relinquished possession and control of one of the carriers on February 6, 1946. From February 6, 1946 to February 14, 1946, operations of the others were conducted by the Government, but thereafter, until March 3, 1946, when the Government relinquished possession and control, the companies assumed financial responsibility for the operations.

On May 17, 1946, the transportation systems of 337 railroads operating throughout the United States were taken into possession of the Government. The properties of the carriers were operated under an arrangement whereby the management of each carrier assumed responsibility for the operations. The properties of all carriers in this group were released from Government possession and control on May 27, 1946.

On June 14, 1946, the transportation system of The Monongahela Connecting Railroad Co. was taken into the possession of the Government. Operations were conducted under an arrangement whereby the carrier assumed financial responsibility for the operations. Federal possession and control of the properties were relinquished on August 12, 1946.

RAILROAD CAR SHORTAGES

Although railroad carloadings in the first 9 months of 1946 were 5 percent lower and 7 percent lower than those in corresponding months of 1945 and 1944, respectively, railroad car shortages have been much more serious this year than they were during the war. There have been two primary causes of this condition: (1) Interruptions of normal industrial and transportation operations by strikes; and (2) inability of the railroads to make adequate replacement and repair of worn-out and defective equipment.

The most serious shortage has been in respect of boxcars, for which demand continues to exceed supply in all sections of the country. The condition is most acute, however, in the East and in the grain-producing regions. In the latter the harvest of rice, soybeans, and grain sorghum has placed a heavy strain on the supply of cars along with the urgent need of boxcars for loading bulk grain. Railroads in the Northwest reported an average of 632 blocked elevators per day in the week which ended October 4, compared with 574 per day at the same time in 1945. Central western and southwestern roads reported 159 closed elevators per day, compared with 41 last year. Reports from all western roads for October 15 showed 2,219,000 bushels of grain on the ground adjacent to elevators or on railroad property. Only 90,000 bushels were in ground storage at the same time a year ago.

The shortage of boxcars has been aggravated by an abnormal demand for such cars for less-than-carload shipments due to truck drivers' strikes, which have diverted a large volume of small-package freight to rail movement. In Chicago, Ill., on October 9, 4,232 carloads of less-than-carload freight were on hand compared with the usual average daily unloading of about 1,200 such cars.

The truck strike at New York, N. Y., has caused the delay of 5,000 boxcars in that terminal area. Because of this strike, as well as those in maritime transportation, the westward flow of boxcars has been substantially reduced.

The supply of automobile cars has been tight, but requirements have been met after occasional delays. The same is true as to covered hopper cars in even greater degree.

There have also been continuing heavy demands for open-top equipment. Deficiencies in coal-car placements totaling 20,610 cars were reported by 19 railroads for the week which ended October 5. The principal shortages were in the eastern coal fields, but they were reported also from the South and the West. Shipment of water-borne coal on the Great Lakes and from Atlantic and Gulf ports for transshipment by vessel was seriously retarded by strikes of coal miners and maritime workers. The close of navigation on the Lakes will be followed by an abnormally heavy all-rail movement of coal to the Northwest to offset the deficiency in lake shipments. The long rail haul and longer turn-around time is expected to cause serious car shortages at the mines next winter.

The demand for gondola cars is exceptionally heavy and will continue to be for the next 2 months owing to requirements for sugar beets in various sections and for sugar cane in the Southwest. The supply of such cars in steel centers has also been tight, but no deficiencies have been reported except from Chicago, where it has been necessary to hold some tonnage in stock piles.

Railroad shipments of fresh fruits and vegetables last year broke all records, and the movement so far this year has also been heavy. As a result refrigerator cars are in large demand. Orders are being filled currently except in the State of Washington, where there was a shortage early in October. Refrigerator-car traffic is increasing, however, and temporary shortages are expected in California and at the Gulf ports, through which there is a large movement of bananas.

The supply of flat cars, which are also in great demand, has been adequate except in the Pacific Northwest, from which lumber shipments are now unusually heavy. For some time empty flat cars have been sent into that region from the East to meet the needs of this traffic.

The livestock movement from the western ranges is increasing both in single- and double-deck cars. All available stock cars are being sent to the principal western railroads which originate this traffic, including surplus cars from the East and South. For the first 9 months of 1946, loadings of livestock were 6.6 percent higher than the corresponding period of 1945, and 3.9 percent above that of 1944.

Cars in bad order, requiring minor repairs or rebuilding are increasing in number. In the week of October 5, 75,789 cars, or 4.3 percent of the total were out of service for repairs, which have been delayed in some instances because of shortages of materials and mechanical labor. In the first 9 months of this year the railroads received 31,719 new freight cars, including 7,389 which were built in their own shops. This number, which was far below replacement needs, was restricted by an acute shortage of steel. Priorities of sufficient steel to build 7,000 new cars per month have recently been announced. This material will be largely used for boxcars and pressure tank cars.

The car shortages above described have made it necessary for carriers, shippers, and all other parties concerned, to do all in their power to promote economical use of equipment. Steps taken by our Bureau of Service to accomplish this result are described elsewhere in this report. Despite such obstacles as insufficient clerical and yard forces in some railroad terminals, there has been an improvement in car utilization measured by average turn-around time. The estimated average for all types of equipment in September of this year was 13.32 days, and the actual average in August was 13.04 days. The averages for August and September 1945, respectively, were 14.7 and 14.4 days. Thus, there has been a reduction in the average turn-around time of one whole day, representing a saving equivalent to 114,000 cars. This achievement, attesting improved efficiency, is all the more notable because the 1945 average reflects the expedited movement of petroleum and petroleum products in trainload lots, since discontinued, which at some periods during the war amounted to 25,000 cars per week. The large volume reduced the turn-around time on the total number of cars in service.

EMERGENCY SERVICE ORDERS

Under emergency powers provided by section 1 (15), (16), and (17) of the Interstate Commerce Act, division 3 issued 356 emergency and vacation orders and 148 amendments between October 1, 1945, and September 30, 1946, inclusive. In addition the Bureau of Service issued 185 general and special permits in the same period. These orders were necessary to facilitate the flow of traffic and prevent car shortages. As of September 23 we had 49 service orders in effect. The subjects dealt with in the principal orders issued this year were as follows:

Embargo of industries.—A number of orders were issued prohibiting railroads from accepting cars consigned or reconsigned to certain industrial plants, at which there were considerable accumulations of

cars despite the fact that the railroads had placed their own embargoes against these plants.

Embargo of less-than-carload freight.—A truck strike in the Middle West shifted a large volume of this traffic to the railroads, causing serious congestion of warehouses and railroad yards. To correct this situation, 15 service orders were issued.

Directing the unloading of delayed cars by railroads.—There were brought to our attention a number of instances in which shippers were unduly delaying the unloading of cars for various reasons. In order to return these cars to service, 191 orders were issued instructing the railroads to unload 2,676 cars.

Expedited movement of food for foreign relief.—To comply with an order of the President directing that the movement of food to conquered countries be expedited, three orders were issued appointing the chairman of the car service division of the Association of American Railroads, our agent, to distribute boxcars for grain loading. Another order was issued giving priority to the placement of cars for that purpose.

Priority on grain from country elevators to terminal elevators.—To facilitate the movement of grain from country elevators, two orders were issued giving priority on shipments to terminal elevators.

Movement of grain traffic under permit.—To facilitate the movement of grain through certain channels, two orders were issued appointing an agent authorized to control the movement by permit.

Priority for seed potatoes.—To assure the movement of seed potatoes from points in Maine to other producing sections, one order was issued giving priority for the movement of certified seed stock.

Control of the movement of coal.—To facilitate the movement of lake cargo, tidewater, and export coal, four orders were issued.

Rerouting of traffic.—To prevent congestion caused by various conditions, two orders were issued appointing an agent with authority to reroute traffic. These orders were similar to Service Order No. 99, which was in effect during the war.

Rerouting of traffic on account of labor difficulties.—Because of strikes of employees of the Toledo, Peoria & Western Railroad and the Mississippi Central Railroad Co., two orders were issued rerouting traffic destined to points on those railroads.

Increased demurrage charges.—As a result of the critical car situation, three orders were issued increasing demurrage charges on all classes of equipment except tank cars.

Reduction of free time for boxcars.—To reduce delay to export and import traffic loaded in boxcars, two orders were issued reducing the amount of free time allowed by tariff rules.

Railroads required to unload boxcars.—To prevent congestion at ports and reduce unwarranted detention of boxcars, one order was issued requiring the railroads to unload such cars after 10 days' delay.

Restrictions on reconsignment of perishables.—One order was issued on this subject.

To expedite return of empty refrigerator cars.—One order was issued requiring railroads to expedite the movement of empty refrigerator cars from unloading tracks and their return to loading points.

Use of class A boxcars for transportation of explosives.—Heretofore, our regulations required the use of the best grade of boxcars obtainable for the transportation of explosives. To conserve the supply of such cars for the transportation of grain and its products, sugar, and other high-grade commodities, we amended our regulations to permit the use of class B and C cars for explosives, and at the same time entered a service order forbidding transportation of explosives in class A cars.

A number of other service orders of a miscellaneous minor nature were also issued.

REDUCTION OF FUNDED DEBT AND FIXED INTEREST CHARGES

As pointed out in prior reports, a large number of railroads have taken advantage of call provisions in indentures in order to effect a reduction of their fixed charges through the issue of securities bearing lower interest rates, or reductions in both their funded debt and fixed-interest charges through the issue of securities and the use of cash in their treasuries. From November 1, 1945, to October 31, 1946, we authorized the nominal issue of \$1,366,200, the conditional issue of \$74,890,200, and the actual issue of \$1,110,483,796, of bonds. Sinking funds were required or voluntarily provided for \$1,031,562,596 of the actual issues. Of the bonds actually issued \$1,099,226,796 have provisions for their redemption prior to maturity. The actual issues included \$49,200,000 of serial bonds or notes which mature annually in from 1 to 20 installments. The issue of bonds, with sinking fund and call provisions, and the issue of serial bonds, put the railroads in a position to continue the gradual reduction of their funded debt. In addition, these refunding operations will effect a reduction of \$150,720,082 in future interest charges. The amount of this reduction will increase as the serial bonds are retired.

Opportunity for reduction of funded debt and fixed interest charges is restricted in many instances because of the fact, to which reference was made in our fifty-sixth annual report at page 28, that a very large portion of outstanding railroad bonds issued prior to the effective

date of section 20a of the Interstate Commerce Act is noncallable. This situation might be remedied under certain conditions if there were in effect legislation such as is described in the chapter on voluntary reorganizations in this report.

As of October 1, 1946, we had approved plans of reorganization for 32 railroads which required reduction in long-term debt not including unpaid interest, from \$3,299,859,000 to \$1,813,297,000, or approximately 45 percent, much of the latter being in the form of income bonds involving no fixed charges against income. Of these, 29, involving a reduction of long-term debt from \$3,284,453,000 to \$1,803,824,000, have been approved by the district courts having jurisdiction in the proceedings. In 25 of the 29, plans have also been confirmed by the district courts. Should all plans approved by us be confirmed by the courts, 32 of the railroads which have filed petitions under section 77 will have their total debt, including unpaid interest, reduced from \$4,218,616,000 to \$1,813,297,000. Under the plans approved, obligatory fixed interest charges would be reduced from \$146,170,663 to \$40,109,468. Of this reduction, \$47,334,175 has already been effected, leaving \$58,727,020 to be realized.

Unfortunately, in effecting a reduction of long-term debt and fixed interest charges through the process of judicial reorganization, creditors and stockholders, in numerous instances, have received new securities in reduced amounts, or of lower value, or have had to relinquish entirely their security holdings. This is true not only in the case of those for whom no equity remains in the reorganized properties, but also in the case of those participating in the reorganizations. These consequences in some instances resulted in no small measure from the fact that those whom the stockholders placed in charge of the debtor corporations when they were solvent used the surplus funds of the corporations during prosperous years in paying dividends, or too liberal dividends, and in making investments in the stocks of other companies. Had the managements of these corporations adopted the policy now prevailing with respect to the reduction of long-term debt and interest charges, the disaster which overtook them might have been avoided or at least its consequences greatly mitigated.

At the close of the year 1935 the amount of unmatured funded debt, including equipment obligations, of line-haul steam railways held by the public (that portion not held by railways) was \$11,341,000,000 as compared with \$8,659,000,000, as of December 31, 1945, or a reduction in the 11-year period of \$2,659,000,000, or 23.6 percent. The amount of interest charges on the funded debt in the hands of the public is not ascertainable except by extensive tabulation of the

interest on individual securities listed in the carriers' annual reports. However, the annual accruals of fixed interest charges on funded debt and of interest on unfunded debt, for all railways, including switching and terminal companies, regarded as one system, i. e., with intercorporate payments eliminated, have declined from \$583,000,000 in 1935 to \$441,000,000 in 1945, or 24.4 percent. The amount of interest on unfunded debt is relatively small, being less than 3.5 percent of the total interest accrued in 1945.

PROGRESS OF RAILROAD REORGANIZATION

Railroads in bankruptcy.—One additional proceeding for reorganization of a railroad under section 77 of the Bankruptcy Act was instituted during the period included in this report. In addition, one petition for reorganization was filed by the Waco, Beaumont, Trinity & Sabine Railway Co., but no advice has been received of approval of the petition by the court. Two reorganizations were concluded through consummation of their plans of reorganization.

A list of all reorganization proceedings before us is shown in appendix E.

At the end of the period covered by our last report, plans of reorganization for The Alton Railroad Co., Boston & Providence Railroad Corp., Central of Georgia Railway Co., Florida East Coast Railway Co., Middletown & Unionville Railway Co., Missouri Pacific Railroad Co., and New York, Susquehanna & Western Railroad Co., were pending in the courts awaiting approval. Plans for the Chicago, Indianapolis & Louisville Railway Co., The Chicago, Rock Island & Pacific Railway Co., and St. Louis-San Francisco Railway Co. were awaiting confirmation by the courts. The plan for the St. Louis Southwestern Railway Co. had been approved by the court and awaited submission to the creditors for acceptance or rejection. The plans for the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., The Denver & Rio Grande Western Railroad Co. and The New York, New Haven & Hartford Railroad Co., had been confirmed but had not been consummated.

During the period covered by this report, a plan for reorganization of The St. Johnsbury & Lake Champlain Railroad Co. was approved by us, certified to and approved by the court, submitted to creditors, and confirmed by the court, but reorganization has not been completed. The district courts approved the plans for The Alton Railroad Co., Central of Georgia Railway Co., and Missouri Pacific Railroad Co., and confirmed the plans of the Chicago, Indianapolis & Louisville Railway Co., and St. Louis-San Francisco Railway Co. The plans for reorganization of Chicago, Indianapolis & Louisville Railway Co.,

and Chicago, Milwaukee, St. Paul & Pacific Railway Co., were consummated.

In the Florida East Coast Railway Co. proceeding, which had been returned to us by the court for further consideration, a plan of reorganization was filed by the Atlantic Coast Line Railroad Co., in which it proposed to acquire the property of the Florida East Coast, issuing its own securities to the creditors of the latter. We reopened the proceeding and held a further hearing upon the objections of the parties thereto and to the modified plan previously approved by us. An examiner's proposed report was issued, exceptions thereto were filed and arguments heard.

Proposed reports of an examiner recommending plans for two other railroads were submitted during the period, exceptions thereto were filed in both cases, and the parties presented argument thereon in the case of the Rutland Railroad Co.

We issued a report modifying the plan previously approved by us for the Central of Georgia Railway Co. We certified the results of submission of plans for acceptance or rejection by the creditors in four proceedings, and the courts have confirmed two of these plans.

We have disposed of a large number of petitions and motions pertaining to features of reorganization, other than the formulation of plans. These have included authorizations, and modifications of previous authorizations of protective committees, the fixing of maximum limits of compensation for trustees, trustees' counsel, reorganization managers and their counsel, and of other parties, and of reimbursement of expenses incurred in the various proceedings, and the acquisition of property and authority to issue securities required to consummate plans of reorganization. Public hearings, not relating to the formulation of plans, have been held on six occasions in six different proceedings. We have issued 25 reports and orders in collateral matters, and the proceedings in reorganization have required us to enter approximately 31 orders or certificates of general administrative character.

Since the passage of section 77 of the Bankruptcy Act, 53 proceedings have been instituted for reorganization under the section. Of these 53 proceedings, reorganization has been completed in 20 cases and the proceedings have been discontinued in 9 cases. Plans have been approved and confirmed by the district courts, but not yet consummated, in five proceedings, and plans have been approved but not confirmed in four proceedings. In the case of the Chicago, Rock Island & Pacific Railway Co., the district court concluded that the plan should not be confirmed and returned it to us. We have reopened this proceeding for a further hearing, which has not as yet been held,

for the purpose of receiving evidence in support of modification of the plan approved by us, or for the proposal and support of a new plan.

Appellate proceedings have to some extent delayed consummation of three plans which have been confirmed by the district courts. In the Denver & Rio Grande Western Railroad Co. case, the Supreme Court of the United States reversed the judgment of the Circuit Court of Appeals and affirmed the orders of the district court approving and confirming the plan approved by us. In the New York, New Haven & Hartford Railroad Co. case, appeals to the Circuit Court of Appeals have been taken from the decree confirming the plan. In the St. Louis-San Francisco Railway Co. case, the Supreme Court of the United States denied petition for writ of certiorari to review a Circuit Court of Appeals' decision sustaining the district court's approval of the plan. Appeals and collateral litigation have delayed submission for acceptance or rejection and subsequent court action upon the question of confirmation of plans previously approved by us for the St. Louis Southwestern Railway Co. and the Missouri Pacific Railroad Co.

Generally it appears that progress in reorganizations under this act have been greatly delayed by unsuccessful appeals from court orders, which in these proceedings are in the nature of interlocutory orders. The principal delay has resulted from appeals from court orders approving plans, entered in all cases prior to the voting on the plans by the security holders and before confirmation. It is doubtful that permitting appeals at this stage of the proceedings, even if they are successful, results in any material shortening of the procedure, whereas the delay through unsuccessful appeals has been important and in some cases disastrous. In general, judicial determination of the rights of appeal enuring to the parties has resulted in two appellate procedures, one from the order of approval and one from the order of confirmation of plans, often upon identical issues. It would seem desirable that in connection with consideration of legislation amending the provisions of section 77 of the Bankruptcy Act referred to elsewhere in this report, the applicability of appellate law to these proceedings be clarified in such a manner as to eliminate the right of appeal from court orders approving plans.

Reconstruction Finance Corporation Act.—Since our last report we have approved aid by the Reconstruction Finance Corporation to three railroad companies or the trustees thereof. One of these cases involved the extension of the time of payment of a previous loan. Of the other two cases, one involved a new loan in the amount of \$250,000 to replenish working capital so that the road could meet current pay rolls and traffic balances, and the other the purchase by the

Finance Corporation of \$2,600,000 of equipment-trust certificates guaranteed by the trustees of the railroad.

Transportation Act, 1920—Deficits under section 204, as amended January 7, 1941.—During the period covered by this report we reopened the proceeding of the Arcata & Mad River Railroad Co., heard further argument, and sustained the previous dismissal of this case by division 4.

In the case of the Rock Island Southern Railway Co., the claim was dismissed by a report and order of division 4, and we denied a petition for reconsideration by the entire Commission.

This completes disposition of the cases reopened for further consideration under the provisions of the amendment of January 7, 1941.

VOLUNTARY REORGANIZATIONS

The act approved October 16, 1942, known as the McLaughlin Act, which revived and amended chapter XV of the Bankruptcy Act, expired November 1, 1945, except as to proceedings initiated by petition filed on or before that date. Prior to the expiration of the act, the Baltimore & Ohio Railroad Co. had prepared a plan of adjustment and filed a petition with a United States district court with a view to carrying out the plan, and we had made the required findings and granted the necessary authority under section 20a of the Interstate Commerce Act. The plan was subsequently approved by the court, and on June 10, 1946, the United States Supreme Court refused to review the lower court's decision. A petition for reconsideration of that action was denied on October 14, 1946.

That deterioration of service and decrease in employment usually occur when a carrier begins to experience substantial loss of traffic and revenues is well known. Deterioration of service and decrease in employment are caused, in no small measure, by the necessity for the carrier to meet its fixed charges and maturities or else face the prospects of receivership or a judicial reorganization under section 77 of the Bankruptcy Act. The financial structures of many carriers were, and in some instances may still be, such as ultimately to require a thorough rearrangement of their financial and corporate structures. On the other hand, instances arise where drastic reorganization is neither necessary nor desirable. Although the financial difficulties of a carrier may be only temporary, such condition, when it becomes known, produces a very unfavorable effect on the carrier's credit and on the marketability of its securities. This arises from uncertainty as to the carrier's ability to extricate itself from its difficulties without judicial reorganization, and the fear that certain classes of its securities may be drastically modified, if not wholly eliminated, in the event of such reorganization.

To avoid such consequences, most creditors would gladly cooperate with the carrier in effecting a voluntary reorganization. However, because of the fact that the obligations of carriers ordinarily are widely held, and for other reasons, it usually is not feasible to effect a voluntary financial reorganization which requires the consent of all the holders of a carrier's obligations or even of all of the holders of an individual issue. Recognition of this fact by carriers and their creditors, and their desire to avoid the possibility of the time-consuming and costly procedure of effecting reorganizations under section 77, brought about enactment in 1938 of the Chandler Act, which added chapter XV to the Bankruptcy Act.

The provisions of chapter XV established a procedure whereby, for a limited period, carriers by railroad as defined in section 20a of the Interstate Commerce Act, and certain other corporations, which were unable to meet their debts as they matured, but which were not in need of financial reorganization of the character provided for under section 77, and whose inability to meet their debts was reasonably expected to be temporary only, might undertake to work out, with the approval of this Commission and the courts, plans of adjustment of their obligations or capital structures which would be binding on the holders of all affected obligations if accepted by the holders of more than three-fourths of the aggregate amount of the claims affected, including three-fifths of the aggregate amounts of the claims of each affected class.

While chapter XV has afforded relief in certain instances, the procedure under it is a modified bankruptcy procedure. Proceedings under its provisions are of necessity prolonged and expensive. It required 2 years and cost approximately $1\frac{1}{2}$ million dollars to effect the first adjustment plan of the Baltimore & Ohio. The second plan of the Baltimore & Ohio was proposed in 1944 and has not yet been made fully effective. Moreover, while the delay and expense of such proceedings are not as great as in case of reorganization under section 77, the relief which may be afforded thereby is offset in other respects. Furthermore, there are certain situations in which desirable alterations or modifications of obligations cannot be worked out at all under procedure such as was provided by chapter XV.

A large part of the capital structures of carriers by railroad has always consisted of bonds. A considerable portion of these bonds is secured by old mortgages which lack many of the provisions which give the flexibility characteristic of mortgages of more recent date, e. g., those permitting or requiring a reduction of the mortgage debt through the operation of sinking funds, those enabling the carrier to call the bonds prior to maturity, and those under which the carrier,

with the cooperation of its bondholders, may alter or modify the provisions of the mortgage. As a rule, bonds issued under the old mortgages must remain outstanding until they mature, and maturities may all fall within a comparatively short period. Frequently a carrier can see considerably in advance that it may have difficulty in meeting a maturity, or that its interest charges may become unduly burdensome. There is merely a threat which can be recognized readily by both the carrier and its creditors. Most, or a great majority, of the creditors are well aware of the potentialities of such a threat and are usually willing, sometimes anxious, to cooperate with the carrier in modifying or altering its obligations so that the anticipated difficulty may be avoided. Under the provisions of chapter XV, however, a carrier must be in position to show that it will be unable to meet its obligations as they mature. It cannot prepare for an anticipated difficulty until the crisis is at hand. But a mere threat, with no adequate means available for meeting it, is sufficient to impair a carrier's credit and depress the market value of its outstanding obligations.

Since the provisions of chapter XV have expired, there is no method whereby a carrier which is not in need of drastic reorganization, but which anticipates difficulty in refunding its outstanding obligations or meeting its fixed charges, may work out an alteration or modification of its obligations without the cooperation of all holders of the obligations affected, or without paying off those of the holders who insist on being paid the full amount of their claims. We are convinced there should be provided a simple and inexpensive method whereby carriers in cooperation with a substantial majority of their creditors can effect an alteration or modification of their obligations without bankruptcy proceedings under either section 77 or such a procedure as formerly was provided by section XV.

In our annual report for 1943, reference was made in the chapter relating to the progress of railroad reorganization under section 77 to a provision which we had incorporated in one of the plans of reorganization approved by us whereby the reorganized debtor, with the consent of the holders of not less than 75 percent in principal amount of the bonds issued by it, could, subject to our approval, modify the provisions of the securities issued by it and the instruments pursuant to which they were issued, including provisions for the payment of interest or principal. In that connection we stated that we were giving consideration to a possible recommendation that Congress adopt legislation which would provide for the application of such a provision to all railroad mortgages under which bonds were already outstanding. We referred to this again in our fifty-ninth annual report in the chap-

ter relating to voluntary reorganizations. At that time there was pending in Congress a bill, S. 1253, which had been introduced at the request of our legislative committee and which would have provided the desired legislation.

As introduced, S. 1253 would have amended the Interstate Commerce Act by adding thereto after section 20a a new section to be designated section 20b, the purpose of which was to provide means whereby a carrier subject to part I of the act (other than a carrier in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act) might, with our approval and authorization, alter or modify any provision of any class or classes of its obligations, or any provision of any instruments pursuant to which any class of its obligations was secured, provided such alteration or modification was assented to by holders of at least 75 percent of the aggregate principal amount outstanding of each class of obligations affected thereby. These provisions, with certain modifications, were incorporated as section 1 of S. 1253, which was passed by the Senate and House on July 31, 1946.

There is great need of legislation such as would have been provided by S. 1253 as it was introduced in the Senate. It is our view, however, that the provisions of this legislation should not apply to carriers in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act. Stockholders and junior creditors of a carrier in equity receivership should be able to bargain with each other and with other creditors if, because of changed conditions, they can show that they have an equity that should be preserved. Any relief which should be given stockholders and junior creditors of a carrier in process of reorganization under section 77 of the Bankruptcy Act, but which may not now be given because of restrictive provisions of that section, should be afforded by appropriate amendment of those provisions.

INCREASED RAILWAY RATES, FARES, AND CHARGES, 1946

On April 15, 1946, substantially all of the class I railroads and some other railroad carriers filed a petition for authority to increase their freight rates and charges and to maintain, without expiration date, their present passenger fares and charges based on (1) the increase in wages of railroad employees, (2) increases in the price of railway materials and supplies, and (3) a decline in the volume of railway traffic and railway revenue. The increase in the freight rates and charges sought was 25 percent, but with important exceptions. Considering these exceptions, the average increase sought was about 20 percent.

On April 26, 1946, we assigned for hearing as Docket **Ex Parte**

No. 162 so much of the petition as requested permission to make the increases proposed effective on May 15, 1946, on 1 day's notice, and at the same time reopened Ex Parte No. 148, Increased Railway Rates, Fares, and Charges, 1942, for further hearing. The emergency increases formerly authorized in Ex Parte No. 148 were then held by our order under suspension until 6 months after the legal termination of the war. Certain supplemental petitions in support of the railroads' petition and asking similar or related relief were filed by other railroad carriers, water carriers, and freight forwarders, which we considered germane to the proceedings.

Hearing was held in both proceedings, upon a common record, in Washington, D. C., before division 2, beginning on May 6 and ending on May 10, 1946. The entire Commission heard oral argument on May 11 and 13, 1946. As permitted by section 13 (3) of the Interstate Commerce Act, we invited the cooperation of the State regulatory commissions, and a cooperating committee of State commissioners appointed by the president of the National Association of Railroad and Utilities Commissioners, consisting of Commissioners Cannon of Indiana, Cornell of Idaho, Darby of South Carolina, Jourolmon of Tennessee, Larkin of North Dakota, Reed of Iowa, and Scragg of Pennsylvania, sat with us throughout the hearing and oral argument.

In our report, 264 I. C. C. 695, decided June 20, 1946, we found that the full amount of increases as proposed by the application of the class I railroads and some other railroad carriers, and by common carriers by water and by freight forwarders, with respect to their freight rates and charges had not been shown to be reasonable and just as an emergency measure. We modified in certain respects the increases in freight rates and charges previously authorized March 2, 1942, in Ex Parte No. 148 (suspended effective May 15, 1943, and later dates, until 6 months after the legal termination of the war) and authorized such increases as modified to be made effective in the period July 1 to July 31, 1946, as a temporary measure pending further hearings. Effective July 1, 1946, the carriers published the increases so authorized.

The increases authorized in our report of June 20, 1946, were in general 6 percent upon all commodities, except certain basic commodities, such as products of agriculture, livestock and products, and low-grade products of mines, such as sand, gravel, broken rock, and slag. As to these, the increase approved was 3 percent. A further increase of 5 percent of the approved rates was authorized in official classification territory, except on anthracite, bituminous coal, lignite, and upon iron ore. As to these latter commodities, the increases approved were applicable in all territories. Iron ore was increased one-

half of the amount originally proposed by the carriers in 1942, when no increases thereon were allowed. The rates on iron ore were increased 2 cents per gross ton in the East, and 3 cents in the southern and western districts, and 3 and 3½ cents per ton, net or gross, on interterritorial traffic. The increases permitted in 1942, on anthracite and bituminous coal, lignite and coke, dependent on the going rate, were further increased 3 cents per ton, which amounted to 6 and 7 cents per net or gross ton on rates of \$1 or less, and 8 and 9 cents per net or gross ton on rates of more than \$1 per ton. A line-haul rate of 50 cents per 100 pounds was prescribed as the minimum rate for which pick-up and delivery service, or allowance therefor, should be afforded.

Further hearings concerning the necessity for further increases in freight rates and charges, and concerning the extension of the present passenger fares and charges, without expiration date, were held in Chicago, Ill., Buffalo, N. Y., Atlanta, Ga., Houston, Tex., and Salt Lake City, Utah. The final hearing, principally devoted to rebuttal testimony, was held in Washington, D. C., September 17-20, followed by oral argument before the Commission and the committee of State commissioners, September 23-28. Briefs will be received October 25. A further report will be issued as soon as practicable.

CLASS RATE AND CLASSIFICATION INVESTIGATIONS

Our preceding annual reports have stated the progress made in these comprehensive investigations, Nos. 28300 and 28310, respectively. Following our reports in *Class Rate Investigation, 1939*, 262 I. C. C. 447 and 264 I. C. C. 41, we made an interim order requiring the reduction of all the present class rates in and between the southern, western trunk-line, and southwestern territories, and between those territories, on the one hand, and official (eastern) territory, on the other, to be reduced 10 percent, subject to certain minima. All of the then existing class rates within official (eastern) territory were required to be increased 10 percent. This would materially reduce the differences in the levels of the class rates between these territories. Our order provided that the minimum charge less-than-carload shipment at class rates be increased from 55 to 75 cents. These interim changes were to become effective November 30, 1945, but for cause we postponed the effective date to January 1, 1946.

Upon petition of most of the governors of the States in official territory, the United States District Court for the Northern District of New York issued an order restraining us from enforcing our interim order. The railroads in the western district (with certain exceptions)

joined in the petition for an injunction, and later filed a separate petition which was heard jointly with the petition of the Eastern States.

The railroads had filed tariffs in compliance with our interim order to become effective January 1, 1946, when the injunction was issued. In conformity with the requirement of the court, we authorized the railroads to postpone or suspend the effective date of the tariffs until our further order. On May 9, 1946, the three-judge United States District Court for the Northern District of New York sustained our interim order. However, the interlocutory injunction was allowed to remain in effect pending appeal to the United States Supreme Court. The United States and this Commission moved in the Supreme Court to vacate the interlocutory injunction pending appeal, but this motion was denied. Because of the size of the record, which the rules require to be printed, and because of difficulties in the printing industry, the record has not yet been printed, and argument of the appeal before the Supreme Court has been delayed. The United States and this Commission moved to advance the appeal and to diminish the record. On October 14, 1946, the Court noticed probable jurisdiction, granted the motion to advance, and set the case for argument February 10, 1947; but the motion to diminish the record was overruled.

In our last report we stated that in response to our decision in Docket No. 28310 the railroads had set up a small committee of experts to formulate a uniform freight classification and a larger traffic advisory committee, composed of traffic officers of the principal railroads, to review the recommendations and work of the smaller group. The latter group, known as the Uniform Classification Committee, consists of the chairmen of the official, southern, and western classification committees. During the past year it has completed an analysis of the level of classification exceptions and commodity rates on all of the articles listed in the present consolidated classification, as an aid to determining a uniform rating for each article which will permit as many as possible of the exceptions and commodity rates to be canceled. We pointed out in our decision that a properly constructed uniform classification should result in the elimination of a substantial number of classification exceptions and commodity rates under which much traffic is now moving, particularly in the South and West and between those territories and official territory. The Uniform Classification Committee has not yet made public any conclusions or recommendations with respect to the ratings for individual articles, but with the preliminary work which has been done, the final step of formulating and publishing such recommendations should progress.

INVESTIGATIONS

Reports have been published in the following investigations of general interest instituted on our own motion:

Ex Parte No. 72 (Sub-No. 1), *Regulations Concerning Class of Employees and Subordinate Officials Included Within Term "Employee" Under Railway Labor Act*, 263 I. C. C. 607 (Roadmasters, St. Louis-San Francisco Railway Co., Frank A. Thompson, trustee); 264 I. C. C. 239 (Roadmasters et al., Union Pacific Railroad Co.); and 264 I. C. C. 315 (Stationmaster et al., Nashville terminals).

Ex Parte No. 104, *Practices of Carriers Affecting Operating Revenues or Expenses, Part II, Terminal Service*, 263 I. C. C. 719 (American Smelting & Refining Co.); 263 I. C. C. 749 (United States Smelting, Refining & Mining Co.); 264 I. C. C. 103 (Anaconda Copper Mining Co.); 264 I. C. C. 479 (Union Tank Car Co.).

Ex Parte No. 137, *Contracts for Protective Services*, 264 I. C. C. —.

Ex Parte No. 148, *Increased Railway Rates, Fares and Charges, 1942*; Ex Parte No. 162, *Increased Railway Rates, Fares and Charges, 1946*, 264 I. C. C. 695.

Ex Parte No. 160, *Pacific Coast Wholesalers' Association, Investigation of Status*, 264 I. C. C. 134.

Ex Parte No. 163, *Increased Express Rates and Charges*, 266 I. C. C. 369.

No. 28190, *New Automobiles in Interstate Commerce*, 263 I. C. C. 771. (On reconsideration.)

No. 28300, *Class Rate Investigation, 1939*, 264 I. C. C. 41. (Supplemental.)

No. 28825, *Bituminous Coal to the Youngstown District*, 264 I. C. C. 347. (On reconsideration.)

No. 28896, *Forwarder Rates Conditioned Upon Aggregates of Tonnage, Western Freight Association*, 264 I. C. C. 225.

No. 29223, *Kansas City S. Ry. Co.-T. & Ft. S. Ry. Co. Merger Accounting*, 263 I. C. C. 563.

No. MC-C-360, *Minimum Class Rate Restrictions*, 44 M. C. C. 636.

In No. 29374, *Accounting by the Western Pacific Railroad Co. in Respect of Opening Journal Entries in Connection With Its Reorganization Under Section 77 of the Bankruptcy Act*, and No. 29415, *Bomb Bay Doors, Garland, Tex., to Trenton, N. J.*, the investigations were discontinued.

Other investigations are pending, some of the more important of which are the following:

Ex Parte No. 128, *Investigation of South Buffalo Railway Co.*

Ex Parte No. 148, *Increased Railway Rates, Fares and Charges, 1942*.

Ex Parte No. 155, *Ownership of Stock in Freight Forwarders*.

Ex Parte No. 160, *Pacific Coast Wholesalers' Association, Investigation of Status*.

Ex Parte No. 162, *Increased Railway Rates, Fares and Charges, 1946*.

Ex Parte No. MC-4, *Motor Carrier Safety Regulations*.

Ex Parte No. MC-37, *Commercial Zones and Terminal Areas*.

No. 20769, *Charges for Protective Service to Perishable Freight*.

No. 26750, *Reduced Pipe Line Rates and Gathering Charges*.

No. 26712, *Rail and Barge Joint Rates*.

No. 28863, *Rates on Wool and Mohair*.

No. 29140, Accounting for Post Driving and Pressure Grouting to Promote Stability of Roadbeds.

No. 29335, Grain and Products from Oregon, Idaho, and Utah to Pacific Coast.

No. 29400, Status of Napierville Junction Railway Co.

No. 29468, Refrigerator Cars—Basis of Car Hire.

No. 29493, Freight Forwarders—Motor Common Carriers Agreements.

No. 29543, Appliances, Methods and Systems Intended to Promote Safety of Railroad Operation.

No. 29548, Switching Charges at Western Points.

No. 29485, Accounting by the Baltimore and Ohio R. R. Co. for the Acquisition of Toledo and Cincinnati R. R. Co., Hamilton Belt Ry. Co. and Lima Belt Ry. Co.

No. 29555, Pick-up and Delivery Services of Railroads.

No. 29556, Charges on Small Shipments by Railroads.

No. 29590, Redemption of Sleeping and Parlor Car Tickets.

No. 29595, Coarse Grain for Feeding in Western Trunk Line Territory.

No. 29598, Joint Rates, Northern Pacific-Puget Sound Nav. Co.

No. 29599, New Orleans Public Belt Railroad Switching.

No. MC-C-150, Motor Freight Classifications.

No. MC-C-200, Motor Carrier Class Rate Investigation.

No. MC-C-542, Pick-up and Delivery Services by Motor Carriers.

No. MC-C-543, Charges on Small Shipments by Motor Carriers.

No. MC-C-550, Investigation of Bus Fares.

INTRASTATE RATE CASES

The following proceeding instituted by us under section 13 (3) of the Interstate Commerce Act is pending:

No. 28791, Rates on Road Aggregates Within Georgia.

WATER COMPETITIVE RAIL RATES

The acting chairman of the United States Maritime Commission and the acting administrator of the War Shipping Administration, in a petition dated March 21, 1946, requested us to institute an investigation into the lawfulness of existing railroad rates and practices to the extent that these are competitive with domestic water carriers. They recited that resumption of private operation of coast-wise and intercoastal steamship lines (then being operated by the War Shipping Administration under temporary authority, as stated elsewhere in this report) was hindered by the unfavorable financial outlook for privately operated water carriers. This condition, they represented, was foreshadowed by low earnings of the water carriers prior to 1941, when domestic ocean transportation was suspended because of the war, and since has been aggravated by substantial increases in the cost of ship operation. A primary contributing cause of the condition, according to petitioners, lies in "unduly depressed rail rates on competitive traffic and certain repressive practices adopted from time to time by the railroads to meet water competition." The petitioners stated that such competitive rates are unjust and unreason-

able in that they are lower than necessary to meet water competition, excessively lower than normal rates, and not reasonably compensatory. They pointed out that some of these rail rates had been established under relief from the long-and-short-haul provision of section 4 of the Interstate Commerce Act, and urged that such relief is no longer justified in view of interim increases in transportation costs and other changed conditions.

Responding informally to the petition by letter, we called petitioners' attention to the fact that to an important extent the water carriers were in a position to compel increases in rail rates merely by raising certain of their own port-to-port rates to which rail rates had been differentially related under our fourth-section orders. Subsequently, the water carriers acted on this suggestion in a number of instances. We stated that, where fourth-section relief had been granted without prescribing a differential between water rates and rail rates, a substantial revision of the water rates without a corresponding revision of all-rail rates might be viewed as such a change in the competitive conditions as would warrant modification of the outstanding fourth-section relief. In line with this suggestion we have ordered railroad carriers to whom relief had been granted under section 4 (1) of the act, by reason of the existence of water competition such as set out in the petition, to show cause why the relief which had been granted in about 65 proceedings, embracing 95 applications, should not be vacated or modified. Returns to this order have recently been filed and are under consideration. It is of interest that a considerable proportion of the returns, relating to 33 applications out of the 95 involved, withdraw the underlying applications and consent to rescission of outstanding relief, as the relief is no longer necessary because of subsequent rate adjustments.

A controversial aspect of this situation relates to rail rates which conform to the fourth section but are deemed by the petitioners to have been made lower than they would otherwise be, on account of competition from water or highway carriers. Rates of this kind are so numerous and widespread as to be incapable of brief description. A proceeding of investigation embracing them would be one of great magnitude and complexity. In view of this fact, and because of numerous protests from railroads and shippers against the institution of such a broad and indefinite investigation, we issued a public notice inviting expressions of views from interests which might be affected concerning the general desirability and feasibility of such a proceeding, particularly with respect to the question of whether the Interstate Commerce Act furnishes authority for granting petitioners relief in the manner and form which they seek, and if so, the

specific sections of the act which should be invoked therein. We invited suggestions concerning the scope of the proposed investigation and means of expediting and facilitating its disposition. Briefs dealing with these questions have been filed by a large number of interested parties, and we have heard oral argument thereon. In due course we shall announce our conclusions in the premises.

EMERGENCY WATER SERVICE

During the war numerous temporary authorities were issued to water carriers for the performance of emergency service, principally to meet needs related directly or indirectly to the war effort. This subject was discussed at pages 33 and 34 of our last annual report. We there expressed the view that it might be necessary to grant many temporary authorities during the reconversion period. That has proved to be so. Indeed, there has been more frequent occasion to authorize emergency water service during the period covered by this report than during any year of the war. From the beginning of the national emergency through October of this year, 106 temporary authorities were issued and 60 extensions were granted. During the 12 months ended October 31, 1946, 40 such authorities were issued, permitting service on the Great Lakes and other inland waterways as well as in coastal areas and 42 extensions were granted. Thirty were still in effect on October 31.

When the railroad employees' strike brought rail service virtually to a standstill during the latter part of May of this year, we sought to ameliorate the situation by granting blanket temporary authority to water and motor carriers subject to our jurisdiction to perform transportation, without regard to the scope of their existing authorities, designated by the Office of Defense Transportation as being of an emergency nature. This meant, in effect, that all such carriers might transport any traffic between any points whatsoever.

The initial grant of coastwise and intercoastal operating authority to the War Shipping Administration was made in September 1945, and referred to in our 1945 annual report. Since that time it has been necessary to extend the term of that authority and to authorize the performance of other services, in addition to those originally specified. Pursuant to the provisions of section 202 of Public Law 492, approved July 8, 1946, the Maritime Commission on September 1, 1946, succeeded to the functions, powers, and duties of the War Shipping Administration, and has been substituted in its stead in the orders authorizing emergency water service. Such authorities are now fixed to expire December 31, 1946. Under the act directing the Maritime Commission to take over the functions of the War Shipping

Administration, that Commission is authorized to continue operations until March 1, 1947, the present expiration date of the act, to the extent that receipts from operations are available.

Pursuant to the temporary authority so granted, the War Shipping Administration commenced intercoastal operations in November 1945. Pacific coastwise service was started in February 1946. A considerable volume of traffic has developed in these trades. Atlantic-Gulf coastwise service was initiated during July of this year, but thus far the volume of freight handled in this service has been small, owing in part to service delays and uncertainties caused by strikes or threatened strikes. These services are being operated on a limited scale. The numbers of vessels now in operation are the following approximate percentages of the numbers employed prior to the outbreak of hostilities: Intercoastal trade, 28 percent; Pacific coastwise trade, 33 percent; and Atlantic-Gulf coastwise trade, 11 percent of the number in the Atlantic and Atlantic-Gulf trades. Transitions from Government to private operation in these trades have been insignificant, because of the unwillingness of the steamship companies to undertake the risk of financial losses under the present conditions. There have been no resumptions of operations in the relatively short voyage service along the Atlantic coast, owing in part apparently to the high ratio of terminal and other costs to revenue per unit of traffic. The difficulties confronting the coastwise and intercoastal trades are discussed more in detail elsewhere in this report.

COMMODITIES IN BULK—WATER CARRIERS

We received on October 15, 1946, a letter from the Director, Office of Defense Transportation, requesting us to recommend to the Congress an amendment to part III of the act to bring under regulation water carriers engaged in the transportation of commodities in bulk. The Director emphasizes particularly the need for regulation of carriers of bulk commodities on the Great Lakes. His letter reads as follows:

Annually, as you know, we are confronted with the problem of moving during the season of navigation large amounts of wheat from the Northwest through the head of the lakes to the lower lake ports for transshipment by rail. If not performed during the season of navigation, it falls upon the rail carriers later, resulting in the use of cars urgently needed for other transportation.

With ballooning industrial production and a record wheat crop, we are confronted with a demand for rail equipment greater than the supply. Never has the need for utilization of the lake carriers of bulk commodities been of such prime importance.

Consequently, this year of all years, we have endeavored to harness this lake capacity. Sometime back, Division 3 instituted an order which would have the effect of building up the stocks in elevators at the head of the lakes to fore-

stall all rail transportation later. This put the grain in the elevators, but then we could not get it moved by the lake carriers because of the excessive price demanded by those carriers, who were neither subject to the Commission's jurisdiction nor the maximum price control act. Had these carriers been under the jurisdiction of the Commission, this rate problem would probably never have interfered.

Since I have been a member of Division 3, to whom the Bureau of Service reports, and during my tenure as Director of this Office, I have repeatedly encountered difficulty, often to the point of frustration, from lake carriers of bulk commodities in efforts to utilize to a maximum degree that capacity and coordinate their transportation with prior and subsequent rail transportation.

I am informed that the water carriers subject to the Interstate Commerce Act transport only about 10 percent of all water tonnage. Section 303 (b) of the Act provides:

"Nothing in this part shall apply to the transportation by a water carrier of commodities in bulk when the cargo space of the vessel in which such commodities are transported is being used for the carrying of not more than three such commodities."

It occurs to me that if Congress ever hopes to fulfill the national transportation policy in "developing, coordinating and preserving a national transportation system by water, * * * and rail * * * adequate to meet the needs of the commerce of the United States * * * and * * * the national defense", it will be necessary for the Commission to have jurisdiction over the transportation of commodities in bulk, particularly that performed by the lake carriers.

As Director of the Office of Defense Transportation, I urge that the Commission, in its annual report to Congress, recommend that Congress amend the Interstate Commerce Act to bring under regulation the transportation of commodities in bulk.

As indicated elsewhere herein, the Commission has in progress an investigation into the management of the business of water carriers and of the business of persons controlling, controlled by, or under common control with water carriers. The material assembled by our staff has been analyzed, and pertinent information from the data available has been covered by a comprehensive report. The report will shortly be released as the tentative proposal of a member of our staff, with a notice reading as follows:

Pursuant to the Commission's "Notice to the Public" of April 25, 1944, wherein it referred to section 304 (b) of the Interstate Commerce Act, under which Congress authorizes the Commission to inquire into and report on the management of the business of water carriers and to submit recommendations to the Congress, and discussed briefly the need for an investigation of such matters, the Commission progressed the inquiry in the matter.

There is attached hereto a copy of a report by C. S. Morgan of the Commission's Bureau of Transport Economics and Statistics, containing his findings and recommendations in this inquiry.

Inasmuch as the questions presented are of widespread concern, the Commission recognizes that, prior to the submission of a report with its recommendations to the Congress, it will be in the public interest to permit those having a substantial interest in the issues involved to submit their views with respect

to the findings made in the attached report, and to offer any criticisms or suggestions they may deem helpful.

Those interested are accordingly requested to give the report their careful consideration, to submit any exceptions or comments they may deem proper, and to furnish the Commission with pertinent data as to matters of which they have special knowledge. An original and 14 copies of any such exceptions or comments should be furnished the Commission on or before March 1, 1947. One copy of each reply to this notice will be made available for public use.

Expression also is desired as to the need, if any, for oral argument. If there is considered to be such need, indication should be given of the general nature of the subjects to be covered in this manner.

Certain amendments to part III of the act are suggested. Among them is an amendment much the same as that requested by the director. It is thought that we should await responses from interested parties as called for in the notice before submitting recommendations for amendments to the statute. The investigation has been docketed as *Ex Parte No. 165, Problems in the Regulation of Domestic Transportation by Water*.

RAILROAD SLEEPING CAR SERVICE

In our last annual report under this heading, we referred to offers which had been made by two firms of investment bankers, a manufacturing company, and a group of railroads to purchase the sleeping-car business of the Pullman Company following the decision of the District Court for the Eastern District of Pennsylvania in *United States v. Pullman Co.*, 50 Fed. Supp. 123 and 53 Fed. Supp. 908.

In an opinion rendered December 18, 1945 (64 Fed. Supp. 108), the court decided that the sale to the railroads should be approved, expressing the view that "the railroads are the natural and obvious people to do the sleeping car business," that "it is their obligation to furnish the sleeping car service," and that this service, "like dining car service, is part of the essential business of carriage of passengers by railroad." The court considered, as an alternative, ordering the Pullman Company to go out of the sleeping-car business and to sell its cars to the individual railroads, but concluded that it should not so order because varying peak loads and seasonal requirements of individual roads necessitated a reserve pool of cars which, if effective, would have to be a common pool, under some kind of unified operation and control. The railroad plan proposed to maintain such a reserve through a cooperative venture in which all roads may join.

In accordance with that opinion, the court issued an order approving the contract of Pullman, Inc., for the sale of the Pullman Co. stock to the purchasing railroads, subject to various conditions designed to prevent repetition of certain practices of the Pullman Co., which the court condemned.

An appeal from this order by the United States, and certain of the intervening plaintiffs, is now pending in the Supreme Court.

The district court, on March 4, 1946, concurrently with the appeal, in order to avoid interruption of service, directed that the Pullman Co. under its then existing management continue to conduct sleeping-car service on the lines of the buying group and such other railroads as might desire service, until the further order of the court with the understanding that, in the event of final judicial approval of the sale of the stock to the purchasing group of railroads, these operations should be for the account of the latter. Pending the decision of the Supreme Court, therefore, railroad sleeping-car service throughout the country will continue to be conducted by the Pullman Co. in virtually the same manner as heretofore.

On July 25, 1946, the purchasing railroads filed an application with us under section 5 (1) of the Interstate Commerce Act, stating that under a plan agreed to by the applicants for the operation of sleeping-car service, in the event their contract to purchase the stock of the Pullman Co. is approved, a portion of the net revenues derived from sleeping-car service on the lines of the respective applicant railroads would be received by the Pullman Co. and distributed by it on a basis other than according to the individual performance of the railroads, and that consequently the individual roads would not receive the entire net revenues derived from sleeping-car operations on their lines. The applicants further state that this plan would constitute pooling within the meaning of section 5 (1), and they seek an order approving and authorizing such pooling. (Under section 5 (1) pooling or division of traffic, or of service, or of gross or net earnings, or of any portion thereof, is unlawful, unless approved and authorized by us, upon finding, after hearing, that it is assented to by all the carriers involved, that it will be in the interest of better service to the public or of economy in operation, and that it will not unduly restrain competition.) Hearing upon the application, docketed as No. 29592, will be held promptly.

SMALL SHIPMENTS

For the present purpose small shipments will be understood to include those weighing not more than 300 pounds.

The importance of this traffic, we believe, is greater than commonly realized. Information at present available to us, supplemented by estimates from incomplete data, indicates that the number of such shipments handled by all transportation agencies, including parcel post, in 1945 considerably exceeded 1.5 billion, equivalent to more than 5 millions each working day; that the aggregate weight of these ship-

ments exceeded 20 million tons; that the average weight per shipment was about 27 pounds, and that the aggregate revenue was at least 1 billion dollars, equal to about 66 cents per shipment.

The following statement, predicated in part upon estimates, shows the extent to which the various transportation agencies participate in this traffic:

Agency	Percentage distribution of small shipments, by kind of carrier, 1945		
	<i>Shipments</i>	<i>Tons</i>	<i>Revenue</i>
Class I railroads.....	5.6	21.0	10.1
Railway express.....	14.3	29.2	40.3
Parcel post.....	71.0	11.6	24.4
Class I common carriers by motor vehicle.....	8.3	34.0	14.9
Freight forwarders.....	.6	4.2	8.9
Air express.....	.2	(1)	1.4
Air freight (scheduled).....	(1)	(1)	(1)
	100.0	100.0	100.0

¹ Less than .1 percent.

Small shipments normally handled by water carriers in sizable volume were transported in 1945, for the most part, by other agencies. Such shipments are transported also by electric railways, by non-scheduled air carriers, and to a relatively minor extent by contract motor carriers, private carriers, and carriers exempted from regulation under parts II and III of the act.

Representations have been made to us for some time that the transportation of small shipments by at least some of the agencies subject to regulation by us is unprofitable, is thus casting a burden upon other traffic, and that there is need for a thorough investigation of this phase of transportation. Accordingly, we have instituted investigations into the charges on small shipments by railroads and by motor common carriers. These proceedings are docketed as No. 29556, Charges on Small Shipments by Railroads, and No. MC-C-543, Charges on Small Shipments by Motor Carriers. Both investigations are of Nation-wide territorial scope. It is planned to hold hearings at convenient places throughout the country.

Subject to exceptions, the existing flat minimum charge by railroads which applies to small shipments is 58 cents per shipment in southern and western territories and 61 cents in official territory. The National Motor Freight Classification names a flat minimum charge of 75 cents, but according to our information, this charge is seldom applicable, being superseded by minimum charges published in rate tariffs ranging somewhat higher. There is much variation in the charges so published.

Insofar as motor carriers are concerned, a considerable amount of information pertaining to costs, traffic, and revenue is at present in

our possession. Along with certain other information it will be offered in evidence at the hearings by members of our staff. The railroads have agreed to the compilation of similar information in cooperation with our cost section. It is contemplated that these investigations will be heard upon a common record. A prehearing conference has been held at which cooperative committees were appointed by railroads, motor carriers, and shippers. Arrangements have also been made for participation by the State commissions under the cooperative plan.

PICK-UP AND DELIVERY SERVICE

For some years representations have been made to us by motor-trucking interests that railroads are transporting less-than-carload freight at less than the cost of service, and so create unfair competition for competing motor carriers. In the recent general class rate investigation it was shown that less-than-carload traffic generally in all the territories is not bearing its proper share of the costs of transportation—in fact, excluding wartime loading, it is not yielding, on the average, its out-of-pocket costs plus constant expenses solely related to this traffic, plus the cost of collection and delivery, in any territory, except possibly in southern where the margin of difference between revenues and these expenses is slight.¹ With a view to determining whether carriers are unduly dissipating their revenues by the according of pick-up and delivery services without additional charges therefor, and for other appropriate purposes, upon our own motion, by order of June 10, 1946, and as subsequently amended, we instituted, under Dockets No. 29555, Pick-Up and Delivery Services by Railroads, and No. MC-C-542, Pick-Up and Delivery Services by Motor Carriers, investigations into the reasonableness and lawfulness otherwise of rates, charges, rules, regulations, and practices of class 1 common carriers by railroad and all common carriers by motor vehicle subject to the Interstate Commerce Act. Prehearing conferences with carriers and shippers, and numerous conferences with carrier representatives have been held with a view to determining the course of the hearings and details of the necessary traffic and cost studies. Hearings will follow as early as proper preparation can be made therefor.

PROTECTIVE SERVICE AND CAR-OWNING COMPANIES

Early in this year we instituted a proceeding of inquiry and investigation into and concerning the compensation paid by common carriers by railroad for the use of refrigerator cars not owned by them,

¹ *Class Rate Investigation, 1939*, 262 I. C. C. 447, 697.

and the terms of contracts, agreements, and arrangements for the use of such cars. At that time the supply of refrigerator cars was barely equal to the demand, and a serious shortage was threatened. At the initial hearing it developed that the large car-owning companies were not acquiring new cars and were unwilling to do so upon the basis of compensation then in effect, generally the payment by the carrier of 2 cents per loaded and empty car-mile. The parties asked that further hearings be deferred pending negotiations. The impending shortage having been relieved by an intensive campaign to expedite the handling of refrigerator cars, and it appearing that the parties might be able to adjust the matter, the request for deferment was granted.

The parties, after a number of conferences, reached an agreement whereby the mileage payment in most instances would be increased from 2 cents to 2.5 cents per car-mile and steps would be taken to increase the supply of cars to a satisfactory level. This agreement became effective July 1, 1946. We are advised that approximately 8,000 new refrigerator cars are now on order and that preliminary steps have been taken for the construction of about 4,500 such cars.

Last year we referred to the report which we had issued April 2, 1945, covering our investigation of the furnishing of protective service against cold by railroad carriers, saying, among other things, that the carriers had complied with our findings, except as to the establishment of a form of protective service for certain shipments of apples and pears based upon the temperature inside the car instead of outside weather conditions, and except as to the establishment by eastern carriers of a form of service long sought by shippers under which the carriers would assume the initiative in protecting perishable shipments against cold, the only service available in the East being that which is furnished at the specific direction of the shipper. Since that time the carriers have indicated that they will establish the desired protective service for apples and pears, but have sought to have further action deferred until after next winter in order to make further tests of thermostatically controlled car heaters. This request has been granted. The eastern carriers have agreed to an arrangement whereby they will, upon their own initiative, protect shipments of potatoes in their custody when such shipments originate at points generally west of the Illinois-Indiana State line. This service became effective with the opening of the current heater season October 15. Carriers serving Maine have agreed with shippers of potatoes to assume the initiative in protecting shipments of potatoes originating in that State in 1947-48. We have acquiesced in this agreement upon the representation that the carriers will require the

intervening time for perfecting arrangements for the service and procuring needed car heaters. It appearing that the eastern carriers will voluntarily establish no carriers' protective service, except the restricted service above mentioned, the issuance of an order requiring the establishment of such service for potatoes from and to points not provided for and for all other perishable commodities throughout the area served by the eastern carriers is contemplated. A further hearing with this end in view was held October 1, 1946.

Since our last report we have considered and approved 17 contracts or agreements, or amendments to existing contracts or agreements, between common carriers by railroad and other persons for the furnishing to or on behalf of such carriers of protective service against heat or cold to property transported or to be transported in interstate or foreign commerce, in accordance with the provisions of section 1 (14) (b) of the Interstate Commerce Act.

SPOTTING SERVICES AT INDUSTRIAL PLANTS

In our last annual report we referred to a tariff published by rail carriers operating in the territory north of the Potomac and Ohio Rivers and east of the Mississippi River, to become effective January 1, 1946, embracing rules which the carriers believed would achieve uniform application of the principles announced by us in *Propriety of Operating Practices—Terminal Services*, 209 I. C. C. 11. There was considerable difference of opinion among the shippers and some of the carriers as to whether the tariff modified or changed the principles set forth in that report. In *Corn Products Refining Co.—Terminal Services*, decided July 1, 1946, we found that the rules and regulations in the tariff were intended to be, and are, in full accord with those principles and interpreted some other provisions of the tariff.

Owing to the falling off in traffic at numerous plants, and to interruptions of operations due to shortages of materials and other causes, the amount and character of terminal services rendered and required at those plants have been very unstable. This is illustrated by one instance where tariffs were filed proposing to pay allowances to a new industry for performing its own switching. The schedules were suspended, some of our employees made an inspection of the plant and observed the services for which it was proposed to pay allowances, a hearing was held, and a proposed report was served, but before the proceeding was submitted for final action, it was reopened on petitions filed by all parties because the conditions had radically changed. A further hearing was held and the matter is now pending. There are similar developments in other proceedings in one of which the

changes were found sufficient to warrant findings different from those in a prior report which had been affirmed by the Supreme Court.

In view of these circumstances and conditions, we have not instituted any new investigations on our own motion since January 1, 1946, except in cases where tariffs have been filed proposing allowances to new industries. No complaints about terminal services have been filed by shippers or carriers. We have proceeded with the consideration of all pending proceedings and have adopted final reports in five of them. It will be our purpose to determine as soon as practicable how and to what extent the carriers are applying the terminal tariff referred to above and, where deemed advisable, to institute proceedings to determine the lawfulness of their practices.

RAILROAD OPERATION AND CONTROL OF MOTOR CARRIERS OF PROPERTY

In our annual report for 1942 commenting on "Motor-Carrier Integration" we pointed out that a significant percentage of transfers of motor-carrier operating authorities were transfers to railroads or railroad affiliates. Acquisitions by railroads or their truck-operating affiliates of hitherto independent motor common carriers have continued in substantial number. In addition to a continuing program of acquisition by purchase, a number of railroads or their affiliates from the beginning of motor-carrier regulation have filed successive applications under section 207 of the act for grants directly to them of authority to initiate new motor-carrier operations.

Having in mind the declared policy of the Congress impartially to regulate "all modes of transportation" in such a manner as "to recognize and preserve the inherent advantages of each" mode of transportation, and "to promote safe, adequate, economical, and efficient service" and "sound economic conditions in transportation and among the several carriers" without "unfair or destructive competitive practices" and the obvious public benefit to be derived from independent development of rail and motor transportation, we have looked with some concern at the apparent tendency of many railroads to acquire a substantial interest, or prominent position, in the motor-carrier industry.

It is apparent from the special requirement originally found in section 213 of the Motor Carrier Act, 1935, and now embodied in section 5 of the Interstate Commerce Act (with which section 213 has been consolidated) that a railroad or its affiliate seeking authority to acquire control of a motor carrier shall be required, not only to show that the proposed transaction will be consistent with the public interest, but also, affirmatively, that it will enable such rail-

road "to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition." Various studies dating back to 1928, see *Motor Bus and Motor Truck Operation*, 140 I. C. C. 685, have indicated the possibility, and desirability, of improving rail service by the coordinated use of motor trucks by railroads. Railroads, or railroad affiliates, seeking our approval of motor-carrier acquisitions or grants of new motor-carrier authority, generally have laid great stress upon their proposed future use of trucks in rail-coordinated service in such a manner as to enable them to accomplish rail-operating economies through the discontinuance of expensive way-freight-train operations and at the same time to improve their rail service. Reluctance to impede such use has been one of the considerations which has influenced our action on applications by railroads, or their truck-operating affiliates, for authority to acquire existing motor carriers or to institute new motor operations.

Almost without exception we have conditioned all grants of certificates under section 207 in such a manner as to restrict the authorized motor operations to service which is auxiliary to, or supplemental of, rail service. *Kansas City S. Transport Co., Inc., Com. Car. Application*, 10 M. C. C. 221 and 28 M. C. C. 5.

Prior to our recent decision on reconsideration in *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, 40 M. C. C. 457, (prior reports 5 M. C. C. 451 and 15 M. C. C. 763), similar restrictions as to future operation were not consistently imposed in approving acquisitions of existing motor carriers by railroads or their affiliates. It has not been our policy to approve unrestricted future operations by the acquiring railroads or their affiliates. See *Pennsylvania Truck Lines, Inc.—Control—Barker*, 1 M. C. C. 101, 5 M. C. C. 9, and 5 M. C. C. 49. In a substantial number of such cases, our approval of the proposed acquisition was specifically made subject to such conditions as we might in the future find necessary to impose in order to insure that future service under the acquired authority would be limited to that which is auxiliary to, or supplemental of, rail service.

Some rail carriers, misconstruing the restrictions on their operating authorities or taking advantage of the lack of specific restrictions attached to purchased authorities, have been rendering directly or through an affiliate substantial all-motor services, at motor rates, in direct competition with their own rail services and with independent motor carriers. In some instances, pursuant to appropriate tariff provisions reserving the right so to do at their option, they at their own convenience have been hauling motor traffic by railroad and railroad traffic by motor. Where the railroad rates are lower shippers desiring motor-carrier service, in many instances, have tendered their

traffic on railroad bills of lading to obtain the advantage of the lower railroad rates. See *Texas & Pacific M. Transport Co., Com. Car. Application*, 41 M. C. C. 721. The practices there disclosed suggested the desirability (1) of imposing definite conditions as to the type of future operations which may be conducted in all subsequent proceedings wherein any railroad acquisition of any independent motor carrier should be approved; (2) of imposing definite conditions governing the type of operations which may be conducted by railroads under motor-carrier rights already acquired in those instances where the right so to restrict had been reserved; and (3) of exploring the possibility of imposing, possibly under section 5 (9) or 208 (a) of the act, appropriate restrictions on operations performed under operating authorities which are not now subject to a specific reservation of a right to restrict.

To chart such a course we reopened for reconsideration the proceedings covered by our last report on reconsideration in *Rock Island M. Transit Co.—Purchase—White Line M. Frt.*, *supra*, and certain other unrelated proceedings. In the *Rock Island* case we exercised a reserved right to restrict certain operations and on reconsideration also, without having previously reserved the right so to do, imposed restrictions limiting the character of the service which could be performed under recently purchased rights which were not as yet covered by any certificate issued to the railroad-operating affiliate. Indications are that our power to act in both of these reports will be contested in the courts. We have not as yet thoroughly explored the extent of our authority under sections 5 (9) or 208 of the act to restrict operations under already issued certificates which are not subject to a specifically reserved right to restrict.

BUS FARES AND CHARGES

Elsewhere in this report, and also in our last annual report, we have referred to the volume of traffic, revenues, expenses, and income of class I intercity and local or suburban motor carriers of passengers. Having in mind the importance to the public of the services of these carriers, their earnings, and the changes in the Federal tax laws applicable to them which became effective this year, on July 1, 1946, we instituted an investigation, No. MC-C-550, Investigation of Bus Fares, into and concerning the reasonableness, and the lawfulness otherwise, of their fares and charges with a view to insuring adequate and efficient interstate bus transportation service at fares and charges which are just and reasonable and lawful otherwise. This is the first comprehensive investigation by us of the fares of common carriers of passengers by motor vehicles.

BROKERS OF MOTOR CARRIER TRANSPORTATION

Under part II of the act we are authorized to license brokers of motor transportation, when it is shown that they are qualified and that their operations will be in the public interest. Brokers act as intermediaries between passengers or shippers and motor carriers but, generally, are not themselves engaged in transportation. To date we have granted licenses to 79 brokers arranging the transportation of property, and to 72 brokers arranging the transportation of passengers.

While the number of licensed brokers is small, most of them are located in the larger cities and have broad contacts with the traveling and shipping public. Of particular concern to us have been those brokers arranging the transportation of passengers and of household goods. Their dealings are generally with those of the public who, seldom having occasion to travel or engage the service of a household goods mover, turn to a broker for assistance. Brokers of general freight deal mostly with business men, manufacturers, and others who generally have a working knowledge of shipping documents, rates, and carrier practices.

Early in the administration of motor-carrier regulation, we were met with widespread abuses in regard to the arranging of so-called share-expense trips in private cars. To curb these abuses effectively, we recommended, and the Congress enacted, legislation amending the exemption in section 203 (b) (9) of the act. In addition we removed that exemption in part in *Exemption of Casual, Occasional, or Reciprocal Transportation*, 33 M. C. C. 69. As a result, such transportation may not now be arranged for compensation by licensed brokers, nor others.

To facilitate regulation, we prescribed regulations requiring passenger brokers to maintain records of each transaction in which they participate (*Records of Passenger Brokers*, 32 M. C. C. 267). Since this tightening of controls there have been far fewer complaints involving the arranging of passenger transportation.

At the present time there are no regulations affecting property brokers, other than the general requirements applicable to all brokers regarding the filing of a bond or other security to insure financial responsibility and prescribing a period for the preservation of such records as are maintained. We have instituted a general investigation on our own motion into the practices of property brokers, Ex Parte MC-39, proposing comprehensive rules and regulations of general application, but particularly designed to eliminate the abuses known to exist in the arranging of household-goods movements. Hearings

have been held at five large cities over the country, and an examiner's proposed report was served during the past June, to which exceptions have been filed. The matter is now awaiting decision.

FREIGHT FORWARDER UTILIZATION OF MOTOR COMMON CARRIER SERVICES

The freight forwarders utilized the services of motor common carriers for a number of years prior to the enactment of part II of the Interstate Commerce Act. Their services have been used to pick up or gather less-than-carload or less-than-truckload shipments of freight and to transport them to concentration points of the forwarder in what is termed assembly service; to deliver less-than-carload or less-than-truckload shipments of freight from the break-bulk or distribution points of the forwarder in what is termed distribution service, and to transport truckload shipments from the assembly points to the break-bulk points in line-haul service. Compensation for the use of such services was the subject of agreements between the motor carriers and the forwarders. Upon enactment of part II the forwarders filed with us tariffs containing what purported to be joint rates with motor carriers, on the assumption that they were subject to the provisions of part II.

In our fifty-ninth annual report, pages 35 and 36, we gave a résumé of the proceedings before us and our findings therein, subsequently affirmed by the Supreme Court, which led to our rejection of the forwarders tariffs. We there stated that as a substitute for the joint-rate arrangements between the forwarders and the motor common carriers, section 408 of the act was enacted, which authorized the motor carriers to publish assembling and distribution rates different from those contemporaneously applicable between the same points, and that section 409 of the act provided for continuance of the joint-rate arrangements to permit gradual readjustment of the rates between the forwarders and the motor common carriers with the least inconvenience to the users of forwarder service.

Little progress was made in establishing assembling and distribution rates pursuant to section 408, due, in part, to differences of opinion between the motor carriers and the freight forwarders as to the level of such rates, and the fear on the part of the forwarders that similar rates would be sought by large shippers claiming that they likewise used the services of the motor carriers under substantially the same conditions as the forwarders. It was clear that the provisions of sections 408 and 409 of the act did not afford a satisfactory solution of the problem of determining the basis upon which for-

warders could utilize the services of the motor carriers. Congress therefore amended section 409 by an act approved February 20, 1946, adding new provisions which make it our duty to prescribe by order the terms and conditions under which forwarders may utilize the services of motor common carriers. In the case of line-haul transportation in truckload lots between assembly and distribution points, payment of compensation to the motor common carriers on a basis lower than would be received under rates or charges established under part II may not be permitted, unless, under the conditions specified in section 409, as amended, we find such lower compensation justified. We are authorized to require the filing or disclosure of the amounts to be paid or observed under any agreement entered into between the motor carriers and the forwarders. The joint-rate arrangements are continued until such time as we prescribe the terms and conditions to govern the method of forwarder utilization of motor-carrier services.

Pursuant to the provisions of section 409, as amended, we have instituted on our own motion an investigation for the purpose of determining and prescribing the reasonable, just, and equitable terms and conditions, including terms and conditions governing the determination and fixing of the compensation to be paid or observed, under which the forwarders may utilize the services of motor common carriers under agreements between the forwarders and motor common carriers, in such a manner as will be in furtherance of the national transportation policy. Hearings in this proceeding have begun.

ACCIDENTS

RAIL

The effect of the movement of the heaviest traffic in the history of the Nation's railroads, and the loss of experienced personnel to the armed forces and war industries, is strongly reflected in the number of casualties resulting from railroad accidents in the years 1941-46. In accidents involving train operation (train and train service accidents), the number of persons killed rose from a total of 4,444 in 1940 to a peak of 5,003 in 1942, and declined thereafter to 4,465 in 1945, 0.47 percent above the 1940 level. The number of persons injured increased each year from 17,558 in 1940 to a peak of 35,769 in 1945, or 103.72 percent above the 1940 total.

A comparison for the period January-June 1946, with the first 6 months of 1945 reveals a decrease in 1946 in both killed and injured, the percentages being 5.05 and 16.55, respectively. The following

statement analyzes the casualties during these two 6-month periods by classes of persons:

Class of persons	Train and train service, 6 months, January-June						Twelve months, January-December ¹	
	Number persons killed			Number persons injured			Percent increase 1945 over 1940	
	1946	1945	Percent increase	1946	1945	Percent increase	Persons killed	Persons injured
Trespassers.....	647	697	² 7. 17	412	491	² 16. 09	² 24. 28	² 43. 17
Employees on duty.....	263	373	² 29. 49	9, 247	12, 077	² 23. 43	68. 42	210. 65
Passengers on trains.....	72	49	46. 94	2, 169	2, 071	4. 73	76. 00	86. 64
Travelers not on trains.....	6	4	50. 00	42	47	² 10. 64	100. 00	58. 33
Others.....	1, 006	977	2. 97	2, 672	2, 741	² 3. 52	5. 96	² . 25
Total.....	1, 994	2, 100	² 5. 05	14, 542	17, 427	² 16. 55	. 47	103. 72

¹ For basic data, see table E, appendix C.

² Decrease.

In the year ended June 30, 1946, there were 419 accidents in connection with steam locomotives, in which 10 persons were killed and 439 injured, as compared with 410 accidents, in which 20 persons were killed and 429 injured, in the preceding year. In connection with locomotives other than steam, there were 38 accidents, in which none was killed and 56 persons were injured. The corresponding figures for the preceding year were 29 accidents in which 1 person was killed and 40 injured. The totals with respect to accidents of this nature were, for 1946, 457 accidents, 10 persons killed, and 495 injured.

Our automatic train-control orders of 1922 and 1924 required certain specified railroads to install automatic train-stop or train-control devices on designated portions of their lines. On November 26, 1928, we issued a report (148 I. C. C. 188) following a further investigation in respect to block-signal systems and automatic train-control devices. In that report it was concluded not to require by order at that time further installations of automatic train-stop or train-control devices. It was stated, however, that expenditures for the preservation of human life should be generous and so distributed that the greatest possible measure of protection would be afforded; and that the carriers should be diligent in their efforts to provide adequate protection against accidents due to grade crossings, derailments, collisions in territory not protected by block signals, failure of wooden bridges and trestles, and the use of wooden passenger-train cars. The carriers were in no way relieved from their responsibility to provide additional protection where needed in territory equipped with block signals.

Since completion of the installations which were required by the automatic train-control orders of 1922 and 1924, the carriers have

been, for the most part, free to exercise their own judgment as to the amounts of their expenditures to promote safety and the manner in which such funds should be used.

However, during the past several years, traffic has increased enormously, heavier and faster motive power has been introduced, streamlined trains have come into use on many railroads, and higher maximum authorized speeds and faster schedules have quite generally been adopted. The occurrence of disastrous accidents in recent years, many of which have resulted in considerable loss of life and injuries to many passengers and employees, has raised a serious question whether the means employed to promote safety have kept pace with the needs of modern railroad operation and particularly with the increased hazards attending the operation of high-speed trains. Accordingly, we have instituted an investigation, on our own motion, Docket No. 29543, under section 25 (formerly 26) of the Interstate Commerce Act primarily to determine whether it is necessary in the public interest to require any carrier to install the block-signal system, interlocking, automatic train-stop, train-control and/or cab-signal devices, and/or other similar appliances, methods, and systems intended to promote safety of railroad operation upon the whole or any part of its railroad on which any train is operated at a speed of 50 miles or more per hour. A hearing has been held, and the proceeding is now pending.

MOTOR

The number of accidents reported to us in 1945 increased nearly 30 percent over 1944 (12,399 in 1945 as compared with 9,672 in 1944) ; the number of fatalities reported increased by 2 percent (1,150 in 1945 as compared with 1,133 in 1944) ; while the number of injuries reported increased about 10 percent (14,346 in 1945 as compared with 12,921 in 1944). The property damage reported in 1945 was more than 25 percent greater than in 1944 (\$13,133,652 in 1945 as compared with \$10,419,849 in 1944). It will be noted the figures given are for accidents *reported* to us by the carriers. We believe that, except as to fatalities, the actual increase in accidents is much lower than the percentages shown. During 1944 the Bureau of Motor Carriers determined through a survey that while almost all fatal accidents were being reported, we were receiving reports on less than half of the injury and reportable property damage accidents. Action was then taken and our efforts have continued to bring about more prompt and thorough reporting. This no doubt accounts for a large part of the increases noted above. Such increase as there has been in the frequency of accidents can be attributed in part to the age and condition of much motor-carrier equipment and the general resumption of highway

travel by motor passenger cars, many of which are not in safe operating condition.

The proportion of the total number of vehicles operated by motor carriers which are either obsolete or in need of mechanical repair remains high both by reason of increasing age and inability of carriers to obtain replacement parts. Thus it is not surprising that the number of accidents attributable to mechanical failures continues to increase (1,124 mechanical defect accidents in 1945 as compared with 1,083 for 1944). The total number of accidents reported, however, increased much more sharply, which accounts for the fact that the percentage of mechanical defect accidents was not quite so great in 1945 as in 1944 (10 percent in 1945 as compared with 12 percent in 1944).

As in former years, the greatest number of mechanical defect accidents involved brakes and tires. In 1945 both the number and percentage of accidents attributable to failures of or defects in tires increased, probably because of the increased use of synthetic tires, which are not yet as well adapted to motor-carrier service as prewar tires. Although "tire" accidents are less numerous than "brake" accidents, there result more fatalities, injuries, and property damage from "tire" accidents than from any other type of mechanical defect.

As was the case during 1944, there were no serious accidents in the transportation of explosives or other dangerous articles. There were fewer accidents involving large property damage in such transportation than had been the case for several years prior thereto.

Both the number and percentage of reported fire accidents decreased during the year (486 in 1945 as compared with 524 in 1944; 4.3 percent in 1945 compared with 5.7 percent in 1944). This is the first time since 1941 that a decrease has occurred in either the number of fire accidents or in the percentage which they constitute of all reported accidents. There was a similar decrease in the total amount of property damage resulting from fire accidents as compared with successive increases each previous year since 1940 (\$3,009,369 in 1945 compared with \$3,195,353 in 1944). However, the fatalities per fire accident, the injuries per fire accident, and the property damage per fire accident, are all greater for 1945 than for any previous year, indicating increasing severity of fire accidents.

ELECTRONICS IN TRANSPORTATION

Further development and experiments have been made in connection with the application and use of electronic devices on railroads. The installation of the train communication system on the Pennsylvania Railroad between Harrisburg and Pittsburgh, Pa., mentioned last year, is nearing completion. It comprises the equipment of 300

locomotives for passenger and freight service, 90 cabin cars and 13 wayside stations, for operation on a total of 274 miles of road. This installation has been placed in service in sections as completed. Material is being assembled for the installations on the Atlantic Coast Line and the Missouri Pacific, which also were mentioned in our report last year. Train communication systems are in regular service in 16 yards, 4 of these installations employing space radio and 12 using inductive systems. Information has been obtained concerning 15 additional installations, proposed or in progress, and 22 experimental and test installations, including both yard and main-line operation.

LAWS RELATING TO RAILROAD LABOR

As shown in our annual reports for previous years, the Railway Labor Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Carriers Taxing Act authorize us under certain conditions to determine whether any line operated by electric power falls within the terms of the provisos of those statutes which exempt street, interurban, or suburban electric railways therefrom. During the current year, as the result of petition filed by interested parties, a hearing was held concerning the status of the South Brooklyn Railway Co. under the afore-mentioned provisos. Briefs have been received, and a proposed report is being prepared.

The Railway Labor Act also authorizes us to amend or interpret our orders defining the work of employees and subordinate officials of common carriers by railroad. Since our last report we have made findings with respect to the following:

Station master and assistant station masters of the Nashville Terminals, operated jointly by the Louisville & Nashville Railroad Co. and the Nashville, Chattanooga & St. Louis Railway at Nashville, Tenn.

Roadmasters and supervisors such as general roadmasters, roadmasters, assistant roadmasters, and general foremen; supervisors of bridges and buildings such as supervisors, assistant supervisors, and general foremen; supervisors of water supply; supervisors and inspectors of signals such as supervisors, assistant supervisors, and general foremen; and supervisors of telegraph lines of the Union Pacific Railroad Co. The proceeding dealing with employment on the Union Pacific and another dealing with roadmasters of the St. Louis-San Francisco Railway Co. (Frank A. Thompson, trustee), decided in 1945, were reopened for oral argument. We heard the parties in argument and made our findings. A petition filed by the Union Pacific Railroad Co. for reargument and reconsideration is now pending.

Pursuant to a request of interested parties, we held a hearing in a

proceeding dealing with chief operators and assistant chief operators at class A and B stations, and supervising teletype operators of the American Air Lines, Inc. Subsequently the parties reached an agreement, and the proceeding has been discontinued.

RATE BUREAUS AND CONFERENCES

In our annual reports for 1944 and 1945 we recommended the enactment of legislation which would clarify the status of carrier organizations generally classified under the above title with respect to the Federal antitrust laws. At that time these organizations enjoyed some measure of exemption from those laws under certificate No. 44 issued by the Chairman of the War Production Board March 30, 1943, under section 12 of Public Law No. 603, Seventy-seventh Congress (set forth on page 28 of our 1944 annual report together with our regulations thereunder).

The announced revocation of certificate No. 44 in October 1945, as stated in our last annual report, in part prompted our recommendation of legislation along the lines of H. R. 2536 (Seventy-ninth Congress), commonly known as the Bulwinkle bill. That bill was subsequently passed by the House of Representatives. With amendments which we considered to be desirable, it was favorably reported by the Senate Committee on Interstate Commerce late in the session, but was not acted on by the Senate.

Revocation of certificate No. 44 was deferred, however, until October 1, 1946, and its continuance for the time being served to make the need for legislation temporarily less urgent. In announcing withdrawal of the certificate on the date last mentioned, the administrator of the Civil Production Administration, exercising powers originally vested in the Chairman of the War Production Board, said in part:

The position taken by the Department of Justice that rate conferences and rate bureaus can function effectively without violating the antitrust laws has resulted in the determination that there is no justification for the further amendment of the withdrawal of certificate No. 44 and it will be allowed to expire on October 1, 1946.

In previous reports we have expressed the fear of danger that undue breadth in interpreting and applying the Sherman Antitrust Act may interfere with carrying out the national transportation policy declared in the preamble to the Interstate Commerce Act, which forbids "unfair or destructive competitive practices." We believe that this danger still exists and are therefore recommending elsewhere in this report that the Congress by appropriate legislation remove the continuing uncertainty concerning the legality of joint action by carriers and freight forwarders subject to the Interstate Commerce Act, exercised through rate bureaus and conferences.

STANDARD TIME ZONE INVESTIGATION

No change has been made in the time-zone boundaries in the past 5 years. However, during most of that period, namely, from February 9, 1942, to September 30, 1945, the standards of time provided by the Standard Time Act were advanced 1 hour by the terms of the War Time Act, 15 U. S. C. 261.

Frequently in the past, we have directed the attention of the Congress to the failure of the Standard Time Act to accomplish its stated purpose "to provide standard time for the United States," because of the action of individual States and communities of adopting and observing, either for the entire year or for a certain portion, a standard of time differing from that provided by the Standard Time Act for the zone in which the particular State or community is located. This confusing situation arises from the limited scope of the Standard Time Act, as interpreted in *Massachusetts State Grange v. Benton*, 272 U. S. 525.

These local departures from the Federal standards of time fall into three classes. The most prevalent practice is the annual advance of the local time by 1 hour during the warmer months under daylight-saving laws or ordinances. It generally is confined to the areas in the eastern parts of the eastern and central zones, and to the period from the last Sunday in April to the last Sunday in September, although there is some variance in dates of beginning and ending. During the advanced standards of war time, summer daylight saving by individual States or communities was wholly eliminated, but the time situation was not without confusion as a number of States and cities in the western portions of the eastern, central, and mountain zones found the wartime standards too fast for their purposes and adopted, for the duration of the war, a standard of time slower than that provided by the Federal law, or shifted to the slower time for the winter months. The third type of local departure is permanent in character. The State or local authorities adopt legislation to transfer the State or municipality into another zone for the entire year, for all purposes other than those specified in section 2 of the Standard Time Act. 15 U. S. C. 262. These departures have been growing in number and extent. In many instances where State laws are involved, cities and towns have refused to follow their States, and the three-way conflict between Federal, State, and municipal time standards has resulted in much confusion and inconvenience.

By the summer of 1941, just prior to our entry into the recent war, daylight saving had grown to such an extent that it was generally observed throughout the New England States, by numerous municipalities in New York, Pennsylvania, New Jersey, Delaware, Illinois,

and Indiana, and at scattered points in Virginia, West Virginia, Florida, Kentucky, Tennessee, and the Upper Peninsula of Michigan. About the end of July of that year, at the request of Federal authorities, the States of North Carolina and Mississippi, and additional portions of Kentucky, Tennessee, and Virginia, went on daylight-saving time to combat the power shortage resulting from the drought prevalent in the South at that time.

Since the termination of war time we have witnessed the recurrence of the prewar confusion attending the annual shift of States and municipalities in the eastern parts of the zones to daylight-saving time. According to the Official Railway Guide, the areas affected were more extensive, and the cities and towns observing the fast time last summer were more numerous than ever before. New adherents to daylight-saving time have developed in western Maryland, both the eastern and western extremes of Virginia, western North Carolina, the east coast of Florida, eastern Ohio, West Virginia, and Tennessee, and, among the cities, Clinton and Dubuque, Iowa, St. Louis, Mo., New Orleans, La., Duluth, Minn., and Butte, Mont. A number of cities and towns in Kentucky observed daylight saving for a few weeks, but soon reverted to standard time. We understand that since the end of the daylight-saving period the recent departures in western North Carolina and eastern Tennessee have been continued on a permanent basis.

In the past year the local departures from the Federal standards have affected the whole or parts of over half of the States, embracing areas which have more than two-thirds of the entire population of the country. After 28 years under the Standard Time Act, the United States is farther away from a uniform system of time standards than it has been at any time since the zone system of time standards was adopted in 1883. During the summer months, it is impossible for us to state with any assurance what standard of time is observed in a large portion of the United States, and this is becoming true with respect to some sections during the entire year. The Standard Time Act provides for five standards of time for continental United States, based on the 75th, 90th, 105th, 120th, and 150th degrees of longitude west from Greenwich, four for the United States proper and one for Alaska. Actually, for at least a portion of the year, eight different standards are observed, based on the 60th, 75th, 90th, 105th, 120th, 135th, 150th, and 165th degrees, the first five for the United States proper and the last four for Alaska. Pacific time is also observed in the southeastern portion of the territory of Alaska, although the doctrine of *Massachusetts State Grange v. Benton, supra*, can have no application to a territory of the United States.

When the Federal and State or local standards of time differ, it has proven impossible to confine them within their respective constitutional spheres. Observance of the local standards inevitably controls and embarrasses the observance of the Federal statutory standard as to matters specified in section 2 of the Standard Time Act. Further, the exercise by certain States of their rights to independent action in time matters has necessarily and invariably dictated or interfered with the standards of time observed in other States or communities. Independent local self-determination in the matter of time standards is wholly incompatible with a uniform system of time zones. The confusion which uncorrelated independent State or local action brings about practically forces us as a matter of expediency to a policy of alleviation in the defining of the zone boundaries, without possibility of conforming to the Congressional standards which look to the needs of the commerce of the area as a whole.

We have repeatedly recommended additional legislation broadening the scope of the Standard Time Act, so that the standard time provided thereby for the four zones in the United States proper be made the exclusive measure of time for all purposes within the respective zones. In the last session of Congress a bill, H. R. 6386, was introduced which would have had that effect and was referred to the Committee on Interstate and Foreign Commerce, but no action was taken thereon. We renew our recommendation that Congress amend the Standard Time Act so as to occupy the legislative field to the exclusion of State legislation and local ordinance respecting the vast body of daily transactions which do not now fall within the scope of section 2 of that act.

ADMISSIONS TO PRACTICE

The year covered by this report showed an increase in the number of admissions over the last few years. A large proportion of those admitted as members of the bar of a court were former members of the armed forces. The total number of admissions for the year ended October 15, 1946, was 695, an increase of 38 percent over the preceding reporting year, and more than double the number admitted during the similar period ended in 1944. The number of persons admitted since the establishment of our register of practitioners on September 1, 1929, is 16,488.

The annual rate of admissions has varied considerably. Since the end of the initial period, in which a total of 4,283 were admitted, the annual rate has varied from 330 to 1,378. For the 5-year period ended October 15, 1935, the annual rate averaged 440; for the next 6 years, following the extension of our jurisdiction to motor transportation,

the annual rate averaged 1,217; and during the past 5 years the annual average rate has declined to 540, probably because of the impact of war coupled with the assessment since the latter part of 1942 of a fee upon admission.

The proportion of nonlawyers of the total admitted during the current year was 21.6 percent, as compared with the overall of 28.1 percent since the bar was established, and 9.6 percent for the 8-year period since we have required nonlawyers to pass a written examination as to their qualifications.

For the past 3 years we have been conducting two examinations a year, one in the spring and another in the fall, for applicants who have not been admitted to the bar of the highest court in any jurisdiction. In the two examinations for which the returns were completed during the year ended October 15, 1946, 194 applicants were examined, of whom 150 or 77.3 percent successfully passed and were admitted.

ADMINISTRATIVE PROCEDURE ACT

The President approved, June 11, 1946, the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, chapter 324, Second Session, entitled "An Act to improve the administration of justice by prescribing fair administrative procedure." Taking effect of certain features of the act are by its terms deferred; the act as a whole for 3 months after its approval (or until September 11, 1946), sections 7 and 8, which relate to hearings and decisions as defined in the act, for 6 months after approval (or December 11, 1946), and the requirement of selection of examiners for agencies pursuant to section 11, for 1 year after approval (or June 11, 1947); "and no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement." (Section 12.)

At the partial hearing accorded us by the House Committee on the Judiciary on various bills having the same general effect as the then pending Senate bill, S. 7, which later was enacted, and in our reports to the committees on the Judiciary of both the Senate and House on this subject, we urged as strongly as possible that Congress exempt this Commission from the operation of any administrative procedure act. We felt, and still are of the opinion, that the diversity of functions which the Commission is required to perform is so great that they cannot be grouped into broad categories, and that the procedures for administration of these functions devised by Congress and by the Commission, tested and bettered by years of evolution based on long experience in practical application, would not be improved by passage of any of the bills, but rather would be made uncertain or actually worsened in important respects. In urging exemption of the Com-

mission we were strongly supported by the association of our practitioners. However, Congress made no exemption as sought.

The Administrative Procedure Act is designed to have a far-reaching effect upon the organization and procedure of agencies of the Federal Government (with specified exceptions). Its mandates are couched in terms of generality, reduced to brief compass, to express the "minimum procedural requirements" to be observed. To accomplish this, the draftsmen in the original bill, S. 7, made categories and devised definitions unfamiliar to general practitioners. Literally applied, these would have thrown our procedure into confusion. Recognizing this (as stated by the Chairman of the Senate Committee on the floor), and desiring to avoid disruption or change of any rules of procedure which were statutory or founded on statutory authority, the bill was extensively amended, so that as passed it contains numerous exceptions to the generalities of language, and to these exceptions various counter-exceptions were appended.

It, therefore, is now a matter of great difficulty for us to determine and state in advance, without having benefit of the opposing views of able counsel in any controverted cases, and with no judicial interpretation to guide us, just what changes in our organization and procedure will be forced by the new act. Difficulties are apparent in reconciling the provisions of the Interstate Commerce and related acts with those of the new act. Thus, sections 7 (as to hearings) and 8 (as to decisions) are with difficulty, if at all, reconcilable with the present provisions of the Interstate Commerce Act contained in section 17, as to the organization of the Commission, and its power to delegate the performance of duties to divisions, individual members, and boards. Again, whether the scope of judicial review has been widened by section 10, and if so, whether unduly, will be for the Federal courts, and ultimately for the Supreme Court to determine. Finality in interpretation of these and many other questions may come only after cases involving them have gone through the courts. Meantime, uncertainty will exist.

It is certain that the provisions of section 11, as to examiners, will considerably affect our personnel and the conduct of our proceedings. For about 30 years our examiners have been appointed through the processes of civil service, as contemplated by the new act. But we have been able to use their services flexibly, as our needs required. Their compensation has been fixed by us within the limits of the Classification Act, and reflects their capabilities and the duties assigned to them, subject to the approvals and reviews afforded by law. But under the Administration Procedure Act, they "shall be assigned to cases in rotation so far as practicable and shall perform no duties in-

consistent with their duties and responsibilities as examiners." Their compensation will be "prescribed by the [Civil Service] Commission independently of * * * ratings or recommendations" by this Commission. While we cannot now state what reorganizations of the largely functionally specialized staff of examiners of the Commission will be required, it appears that increase in the number and in travel expense will be inevitable. What changes in compensation may result will be determined by the Civil Service Commission, and we can only speculate as to the ultimate effect upon our personnel and its morale.

We regard the enactment of the Administrative Procedure Act as in some aspects unnecessary, because in part it is merely repetitious of what has long been our established procedure. In other respects it seems unfortunate, because of the confusion and uncertainty it raises. We have not been able to find and no one has pointed to any provision in it which will simplify or facilitate our work.

However, we must apply it in letter and spirit, so far as ascertainable, but considering the repeated assurances by proponents of the various bills which eventuated in the act, that they would effect no material change in our procedure, we do not contemplate any radical changes in our organization or procedural methods until inconsistency with the new act is clearly shown.

WORK OF THE LEGISLATIVE COMMITTEE

The Legislative Committee responded to 19 requests from committee chairmen and other members of the Seventy-ninth Congress for reports on bills having a bearing on our administrative functions. In addition it submitted 14 reports to the Bureau of the Budget concerning legislative matters upon which that bureau sought our views.

In our last annual report we referred in some detail to a number of bills then pending before the Seventy-ninth Congress, upon which we had been asked to report, and our views thereon were briefly indicated. On most of those bills no action was taken by either branch of the Congress.

S. 7, "To approve the administration of justice by prescribing fair administrative procedure," was enacted as the Administrative Procedure Act, and is referred to elsewhere in this report.

H. R. 2536, "To amend the Interstate Commerce Act with respect to certain agreements between carriers," which passed the House of Representatives and was favorably reported to the Senate, is also referred to in another section of this report.

S. 1253, "To amend the Interstate Commerce Act, as amended, and for other purposes," (providing for voluntary reorganization), and

related bills, H. R. 4779 and H. R. 5924, were the subject of hearings before committees of both the Senate and the House, at which several of our members testified. We favored the enactment of S. 1253 originally but not in the form in which it was finally passed late in the session. Since the measure was not signed by the President, it did not become law. Our views on the subject of these bills are stated in more detail in another part of this report.

A member of our Legislative Committee testified at hearings on H. R. 2764, "To amend section 409 of the Interstate Commerce Act, with respect to the utilization by freight forwarders of the services of common carriers by motor vehicle," which was subsequently enacted into law.

A number of bills relating to transportation which were introduced in the second session of the Seventy-ninth Congress were of major importance in connection with our work. We recommended the enactment of H. R. 4872, "To amend the Interstate Commerce Act, as amended," which would have added to the Interstate Commerce Act a number of new sections which would make common carriers by motor vehicle and by water and freight forwarders liable for the payment of damages to persons injured by them through violations of that act. We expressed approval in principle of S. 2088, "To establish a Federal Traffic Bureau, and for other purposes." We recommended the enactment of H. R. 6386, "To amend the Act of March 19, 1918, so as to provide that standard time shall be the measure of time for all purposes, and for other purposes." We also recommended the enactment of S. 1537, a bill "To promote the safety of employees and travelers upon railroads, and to protect the public by requiring certain common carriers by railroad to install and maintain communication systems, and for other purposes."

BUREAU OF ACCOUNTS

The shortened procedure of the Bureau, inaugurated in 1943 after the heavy reduction of personnel occasioned by transfers to war agencies, continues to be efficient and economical.

In the past year the Bureau has completed 875 general and special investigations of the accounts and records of transportation agencies subject to our jurisdiction, leaving 26 in progress.

Ninety-nine orders were issued, 3 relating to accounts of steam railroads, 1 of an electric line, 1 of a refrigerator car line, 1 of a pipe line, and 1 of freight forwarders, and 92 pertaining to depreciation accounts of railroads, pipe lines, and water carriers.

Complete revisions of the uniform systems of accounts for electric railways and water carriers and of regulations governing the destruc-

tion of records of electric railways and express companies were made during the year. The formulation of uniform systems of accounts for holding companies and sleeping-car companies has been completed.

BUREAU OF FINANCE

Certificates of convenience and necessity, acquisition of control, et cetera.—During the year ended October 31, 1946, 60 applications were filed for permission to abandon about 1,747 miles of railroad, and 76 miles of operations under trackage rights. The proceedings, in which we rendered 43 decisions, involved the proposed abandonment of about 913 miles of railroad, and 30 miles of operations. In 21 of those proceedings, involving 299 miles of railroad, no protests or objections were filed by shippers or public authorities. Protests were filed, and hearings held, in 17 cases, involving 614 miles of track, and 30 miles of operations. Of the applications protested, we denied those involving 273 miles of lines, and authorized the abandonment of the remaining 341 miles of lines and 30 miles of operations. We granted 1 application involving 13 miles of main lines for which a substitute line was built, 36 applications, involving 244 miles of branch lines of class I carriers, and 30 miles of trackage rights, and 384 miles of so-called short lines. Of the short-line mileage, 285 miles were abandonments as to interstate and foreign commerce of the entire lines of the applicants, and 99 were portions of such lines. In proceedings in which certificates were issued, covering 323 miles of road, the estimates of average annual losses from continued operation or of future annual savings resulting from abandonment amounted to approximately \$850,000. In proceedings covering the remaining mileage, estimates of losses or savings were not given. Mileage and losses in abandonments of lines on which no service has been rendered in recent years because of the absence of traffic, have not been included.

It has been shown in certain cases that the necessary cost of rehabilitation or of bringing up deferred maintenance of tracks which were permitted to be abandoned, aggregating about 233 miles, would require an expenditure estimated at \$2,558,000. Since this amount would necessarily be expended in order to continue operation, abandonment would result in a saving which to that extent can, with reasonable accuracy, be estimated in advance.

Corresponding data are given in our reports beginning with the report for 1934.

In appendix D, we have listed the certificates issued, authorizations granted, and pertinent data with respect to proceedings involving the abandonment, construction, and acquisition and operation of

lines of railroads under section 1 (18) of the Interstate Commerce Act; and consolidation and mergers of carriers, purchases, leases, and contracts to operate properties of carriers by other carriers, acquisition of control through ownership of stock, or otherwise, of carriers by other carriers, or by persons not carriers, acquisition by carriers of trackage rights over, or joint ownership or use of, railroad lines and terminals of other carriers, under section 5 (2) of the act.

In 12 cases we authorized transfers of certificates of water carriers under section 312 of the act.

Controlling persons.—In *Atlantic Coast Line R. Co. Purchase*, Finance Docket No. 15015, decided December 12, 1945, 261 I. C. C. —, we held, among other things, that the Atlantic Coast Line Co., a corporation organized under the laws of the State of Connecticut, was subject to our jurisdiction under section 5 (2), (3), and (4) of the act, and that it should be considered a carrier subject to section 20 (1) to (10) and section 20a (2) to (11) of the act, relating to reports, accounting, and the issuance of securities. Approximately 95 percent of its assets were investments in securities of the Atlantic Coast Line Railroad Co. and affiliated companies. It owned about 26 percent of the capital stock of the railroad company.

The plan under which the Seaboard Air Line Railroad Co., referred to as the new company, purchased all of the assets of the Seaboard Air Line Railway Co. or its receivers included a voting trust under which the trustees would control the various railroads constituting the Seaboard system. We held that the trustees would have such control as is contemplated by section 5 (2), (3), and (4) of the act, and authorized the control proposed, upon condition, however, that the voting trust shall not continue in effect after April 1, 1951, except upon our authorization, and that no other voting trust shall be created to control the common stock of the new company unless authorized by us. We did not subject the trustees to the requirements as to reports and accounting applicable to carriers. 261 I. C. C. —.

During the year we authorized three individuals each to acquire control, through ownership of capital stock, of a rail carrier. See *Litchfield & Madison Ry. Co. Control*, Finance Docket No. 15288, decided June 27, 1946; *Louisiana Midland Ry. Co. Purchase*, Finance Docket No. 15052, decided December 27, 1945, and *Saratoga & Schuylerville R. Corp. Purchase*, Finance Docket No. 14967, decided December 29, 1945. We also authorized control, through ownership of capital stock and affiliation of interests of stockholders or corporations, of two water carriers. See *Phillips Steamship Company Control*, Finance Docket No. 15170, decided March 29, 1946, and *Saginaw Dock & Term. Co. Contract Carrier Application*, 260 I. C. C. 657.

Railway employees.—As shown in our last annual report, it had been our practice in proceedings under section 5 (2) of the act in which it was not possible to determine at the time of our decision whether any employees might be adversely affected, to reserve jurisdiction to make additional findings and impose such terms and conditions as may be required by law, if upon petition by the employees or their representatives it appeared that their interests had been, or would be, adversely affected as a result of the authorizations granted. In such cases it is now our practice to grant authorizations, subject to a condition for the protection of the employees, such condition being in the language of section 5 (2) (f) which describes, in general terms, the measure of protection we must prescribe. See *Chicago & N. W. Ry. Co. Merger*, 261 I. C. C. 672. In several proceedings the applicants and organizations representing employees who might be affected entered into agreements for the protection of the employee interests as permitted in the last sentence of section 5 (2) (f).

In cases involving abandonment of branch lines of railroad, in which it appears that employees would be adversely affected by abandonment, we have continued our practice of prescribing conditions for the protection of employees similar to those in *Chicago, B. & Q. R. Co. Abandonment*, 257 I. C. C. 700, if request therefor is made by, or in behalf of, the employees. In many of the cases the applicants have agreed to such conditions.

In cases involving the abandonment of the entire line, or system, of railroad companies, we have declined to impose conditions for the protection of employees.

Interlocking directorates.—During the period covered by this report, we received 235 applications from individuals, and 4 from carriers. Disposition was made of 245 applications, of which 240 were granted, and 5 were withdrawn.

Issuance of securities and assumption of obligation.—During the year, we authorized, under the provisions of section 20a of the act, the issue of securities for refunding maturing obligations, for refinancing other unmatured securities bearing higher rates of interest, for new money to be used for various corporate purposes, and for the purpose of effecting mergers.

The assumption of obligation and liability in respect of the securities of others, consisting largely of equipment-trust certificates and the securities of subsidiaries, and those of terminal companies, has been authorized. Several hearings have been held in respect of the various issues and assumptions. A statement of the amount of securities involved and the purposes to which applied will be found in appendix D.

In our last annual report we considered the matter of the sale of railroad securities under the provisions of our report *In Re Competitive Bidding in Sale of Securities*, 257 I. C. C. 129, and the filing of special applications for exemption from the competitive bidding requirement. During the past year no separate application for exemption was filed. Request for exemption from the competitive bidding requirement was made in connection with four applications filed under the provisions of section 20a of the Interstate Commerce Act. In three instances the request was granted, and, in disposing of the other application, we found that the security to be issued came within the exceptions to the competitive bidding requirement and, therefore, that no special exemption was necessary. The table included in appendix D shows the results of all bond sales under competitive bidding during the past year, together with certain pertinent data. The principal amount of such bond sales was \$711,936,000 and in addition \$85,842,932 of equipment obligations and \$6,500,000 of terminal bonds were sold in this manner.

BUREAU OF FORMAL CASES

The formal complaints filed numbered 261, of which 225 were original complaints and 36 subnumbers, an increase of 27 as compared with the previous period. We decided 169 cases, and 77 have been dismissed by stipulation or on complainants' request, making a total of 246 cases disposed of, compared with 297 during the previous period.

Approximately 36 formal and investigation and suspension cases have been reopened for further hearing and reconsideration.

We conducted 377 hearings and took approximately 63,456 pages of testimony, as compared with 395 hearings and 53,141 pages of testimony, during the previous period.

The following statement shows certain facts with respect to the condition of the docket as of October 31 of the years indicated:

	1943	1944	1945	1946
Formal complaints filed.....	137	170	207	225
Subnumbers.....	18	22	27	36
Investigation and suspension cases instituted.....	103	64	41	70
Cases under submission at end of period:				
Regular docket.....	84	56	49	35
Shortened procedure.....	13	18	11	25
Cases disposed of including subnumbers and reopened cases.....	363	332	332	263
Number of pending cases.....	393	378	396	458
Additional proceedings disposed of by formal reports:				
Fourth-section applications.....	45	21	25	13
Ex parte proceedings.....	20	7	19	15
Railway Labor Act.....	5	0	3	0
Water-carrier applications.....	59	30	31	28
Freight-forwarder applications.....	3	25	15	5

SHORTENED PROCEDURE

Approximately 34 percent of the total number of formal complaints are now handled by the shortened procedure method, as compared with 27, 27, and 31 percent during the three preceding years. In the cases so handled and decided during this year, the average elapsed time to reach a decision was 332 days from the receipt of complaint and 198 days from receipt of the final memorandum. The corresponding periods during the three preceding years were 359 and 221 days, 333 and 183 days, and 362 and 216 days, respectively.

BUREAU OF INFORMAL CASES

The number of informal complaints filed under parts I, III, and IV of the act was 1,196, an increase of 217. The rail carriers filed 1,746 special docket applications for authority to refund amounts collected under the published tariffs and admitted by them to have been unreasonable, a decrease of 227. Orders authorizing refunds were entered in 1,520 cases, a decrease of 42, and reparation thereunder was awarded in the sum of \$1,421,105.92. In addition, 234 cases were dismissed or disposed of without orders. A number of orders entered on the special docket covered complaints originally submitted on the formal docket, thus obviating the expense of formal procedure. The Bureau also received approximately 8,300 letters, many of which had the characteristics of informal complaints although not classified as such, an increase of approximately 1,100 letters.

The Bureau assists interested parties in adjusting their rate and other transportation difficulties through the medium of conferences and by correspondence. Efforts are made to have complainants and the defendants in appropriate cases submit their problems for handling through this informal procedure. Litigants should avail themselves of this method of procedure wherever practicable with the view to saving time, effort, and expense.

BUREAU OF INQUIRY

Our staff of attorneys and special agents directed and conducted approximately 135 investigations of alleged violations of the criminal provisions of parts I, III, and IV of the Interstate Commerce Act and related statutes.

The work of this Bureau consists of conducting field investigations to determine whether violations of the statutes have been committed by railroads, water carriers, and freight forwarders or by shippers using their facilities and services. These investigations are conducted by special agents under the direction of attorneys who, in turn, analyze

the evidence gathered, make recommendations, and, when prosecution or other court action is approved, prepare cases for submission to the United States attorneys and assist in the presentation of the evidence to the courts. In addition to these activities, the special agents are called on from time to time to conduct investigations pertaining to formal-docket proceedings. Likewise, attorneys are occasionally assigned to act as counsel representing the public interest in our proceedings.

Extensive investigations were progressed during the year in connection with noncompliance with our service orders issued under the provisions of section 1 (15) of the act. One of these, concerning Service Orders Nos. 368 and 422, which required the prompt unloading of boxcars, involved eight rail carriers serving New York City. Based on the evidence gathered by our special agents, complaints were prepared and filed against seven of these carriers. Penalties of \$22,500 were imposed. Prior to these proceedings, a similar complaint was filed against a carrier at another point for violations of the same orders, resulting in the imposition of a penalty of \$1,000.

Investigations of violations of Service Order No. 244 were also conducted at several midwestern points. This order prohibits the furnishing of cars for the loading of grain unless the carrier received from the shipper written orders for the cars, which contain information specified in the order, and also daily reports concerning the ability of the shipper to load cars promptly. Penalty suits were brought against 17 carriers for violations of this order. In nine of the proceedings, penalties totaling \$8,500 have been imposed. The eight remaining cases are pending.

Failure to comply with the provisions of Service Order No. 436 formed the basis of other investigations at several points. In one instance it was found that this order, which requires that refrigerator cars, after being unloaded at destinations, be forwarded promptly from such points to perishable loading points, was being violated by a railroad company. Accordingly, a complaint was filed against this carrier and a penalty of \$500 was imposed.

Among the several investigations of false billing of commodities was one relating to the misdescription of drugs and cosmetics as flavoring syrup in less than carload lots. Our special agents discovered numerous attempts on the part of the shipper to defeat the lawful rate by misdescribing his shipments in this manner. After trial on an information containing 25 counts the shipper was found guilty and fined \$10,000.

A shipper of second-hand railway rails falsely described his shipments as scrap iron having value for remelting purposes only, when,

in fact, such rails were intended for resale and subsequent use as relaying rails. Prosecution of this shipper resulted in a fine of \$1,000 on a plea of *nolo contendere*. In addition, the court ordered that all undercharges be paid. Another investigation, concerning the false billing of a mixed carload shipment of soap and furniture, disclosed that a manufacturer of powdered soap had attempted to defeat the lawful rate by describing the shipment as a straight carload of soap. This shipper was fined \$100. An investigation of a shipper in California disclosed that the practice of soliciting and accepting concessions had been engaged in by it in connection with falsely billing burlap bags. This shipper incurred a fine of \$2,000 on a plea of guilty to an information filed against it. In an action pertaining to the false billing of wool as wool shoddy, an indictment in five counts was returned against a shipper in Ohio, to which a plea of guilty was entered and a fine of \$500 assessed.

Several cases, involving alleged failure of carriers to assess and collect charges in accordance with the published demurrage rules, were under investigation. In one of these a rail carrier had failed to maintain adequate demurrage records, thereby making it impossible for it to compute charges for detention of cars delivered to an industry. This carrier was fined \$1,000 on a plea of guilty. For failure to observe its tariffs, as well as the granting of concessions and the falsification of records, a fine of \$5,000 was imposed on another railroad company which did not assess and collect applicable demurrage charges on shipments of lime marl. A fine of \$5,000 was assessed against another rail carrier for failure to charge a shipper for the detention of loaded cars held on its rails for long periods, which the carrier was unable to deliver to the shipper because of congestion on the latter's plant tracks.

Investigations of unlawful extension of credit to shippers by various railroad companies resulted in three prosecutions. In one of these, the carrier, in a 20-count information, entered a plea of *nolo contendere* and paid a fine of \$2,000. The two other cases are pending.

In another investigation it was disclosed that carriers and shippers had made and obtained deliveries of order-notify shipments in violation of rule 7 of the Consolidated Freight Classification. One railroad company delivered such shipments before surrender of bills of lading without the posting of a bond or other security as required by the rule. Upon prosecution the carrier pleaded *nolo contendere* and was fined \$3,000.

Violations of grain milling-in-transit tariffs have been disclosed in several investigations conducted by our agents. These cases have been found to warrant prosecution. One concerned a large shipper of

grain, which had obtained benefits of transit arrangements to which it was not entitled on a large number of shipments by surrendering inbound freight bills against those shipments and thus representing to the carriers that the grain comprising such shipments had been unloaded at the transit point, when in fact the grain was forwarded in the cars in which it had arrived with original seals intact. On the filing of an information against this shipper, a plea of *nolo contendere* was entered and a fine of \$2,000 was assessed.

Another milling company was found to have engaged in the practice of purchasing carload shipments of grain products and subsequently billing them out under transit rates to other points without unloading the cars into its transit house, as required by the transit tariffs. To an information in two counts, it entered a plea of *nolo contendere* and incurred a fine of \$2,000.

One of our grain-transit investigations showed that two rail carriers and a shipper were implicated in a device whereby concessions were granted the shipper. The defendant, who was a traffic manager for the shipper, was charged with soliciting a concession by means of false representations to obtain the benefit of a transit arrangement which was not applicable to the shipments involved. The railroads in turn were charged with failure to observe the provisions of their transit tariffs. A plea of guilty by the shipper and pleas of *nolo contendere* by the railroads were entered and a fine of \$1,000 imposed on each defendant.

Prosecution of a corporation for soliciting concessions by understating the weight of express shipments brought a plea of guilty and a fine of \$7,500.

Prosecutions were instituted against 12 railroad companies for failure to comply with our regulations for the transportation of explosives and other dangerous articles. In 9 of these cases pleas of guilty or *nolo contendere* were entered and fines aggregating \$6,050 imposed. In the remaining cases informations are pending. The violations involved the placing of freight cars placarded "Explosives" next to cars placarded "Dangerous," the placing of cars placarded "Explosives" too near the front or rear end of trains, permitting cars placarded "Explosives" to be cut off from other cars in switching operations and moved under their own momentum, failure to give copies of notices to train and engine crews of the location of carloads of explosives in trains, and failure to insert on waybills for shipments of explosives a notation such as is prescribed in the regulations.

For violations of the Interstate Commerce Act and related acts, 3 indictments were returned, and 20 informations and 26 complaints were filed. The status of cases pending court action at this date is as

follows: Eighteen approved for prosecution but not yet instituted in the courts and 16 instituted by the filing of informations and complaints or the return of indictments. Forty-eight cases were concluded in the district courts, which resulted in the imposition of penalties totaling \$82,650, all of which were paid. Many of these cases, instituted during the present year or prior thereto, are still pending.

Prosecutions had their venue in the following states: Alabama, Arizona, California, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maryland, Michigan, Minnesota, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, South Carolina, Tennessee, and Washington.

A summary (a) of the indictments returned and informations and complaints filed in the United States district courts, and (b) of cases concluded in those courts, is set forth in appendix A.

BUREAU OF LAW

On October 31, 1945, there were pending in the courts 49 cases involving our orders or requirements. During the year 22 cases were instituted and 38 were concluded, leaving 33 cases now pending. Of these, 9 are in the Supreme Court of the United States, and 24 are in the district courts of the United States.

Twelve cases were submitted and decided in the Supreme Court, and 26 were concluded in the district courts. Summaries of all the foregoing cases are shown in appendix B.

The cases decided by the Supreme Court were:

United States v. Pierce Auto Freight Lines, Inc., 327 U. S. 515.

In this case, the Supreme Court reversed the district court (57 Fed. Supp. 192) and sustained our order of March 1, 1943, in No. MC-42487 subnumbers 15, 18, 19, and 20, *Consolidated Freightways, Inc., Extension*, and No. MC-9115 (Sub-No. 1), *Oregon-Nevada-California Fast Freight, Inc., Extension* (unreported, 42 M. C. C. 858).

Prior to the filing of section 207 (a) applications, Consolidated operated between Portland, Oreg., and Medford and Klamath Falls, Oreg., and O-N-C operated between San Francisco, Calif., and Medford and Klamath Falls. Consolidated's application sought authority to extend its lines from Medford and Klamath Falls to San Francisco; O-N-C's application sought authority to extend its lines from Medford and Klamath Falls to Portland. The effect of granting both applications would have enabled both carriers to operate their own single-line routes between San Francisco and Portland over the same highways, superseding a joint service which the two carriers were then rendering through interchange of traffic at the two southern Oregon termini mentioned.

The two applications were referred to separate joint boards and were heard separately, but in view of the close interrelationship between the two applications, they were covered by a single report rendered by division 5. One contention in court was that in its decision, which granted both applications, division 5 considered the evidence in the two records as though they had been consolidated, with the result that evidence put in only by Consolidated was weighed in granting O-N-C's application, and vice versa. The district court sustained this contention. The Supreme Court held that if this contention were substantiated and resulting prejudice were shown, it would be fatal to the order, but further held that no showing of this sort had been made nor had there been a showing of such prejudice.

The Court made important holdings upon the subject of "official notice" which may be taken by an administrative agency, stating:

It is true that ordinarily an administrative agency will act appropriately, in a proceeding of this sort, upon the record presented and such matters as properly may receive its attention through "official notice." It is also true that this Court, in appropriate instances, has limited the use of the latter implement in order to assure that the parties will not be deprived of a fair hearing. See *United States v. Abilene & So. Ry. Co.*, 265 U. S. 274, 286-290; *Interstate Commerce Commission v. Louisville & Nashville R. Co.*, 227 U. S. 88, 93-94. But in doing so, it has not undertaken to make a fetish of sticking squarely within the four corners of the specific record in administrative proceedings or of pinning down such agencies, with reference to fact determinations, even more rigidly than the courts in strictly judicial proceedings. On the contrary, in the one case as in the other, the mere fact that the determining body has looked beyond the record proper does not invalidate its action unless substantial prejudice is shown to result. *Market St. Ry. Co. v. Railroad Comm'n.*, 324 U. S. 548, 561-562; cf. *Opp. Cotton Mills v. Administrator*, 312 U. S. 126, 154-155. In these cases no more is necessary than to apply that rule.

The Supreme Court's opinion also dealt with the contention that our findings were inadequate, and although it sustained our order over the objections of the appellees, who had been protestants in our proceedings, it yet spoke unfavorably of one of the findings as "inartistically drawn." The Court again emphasized that an ultimate finding in the words of the statute is not enough and that such a finding must have a basic finding to support it.

The Court also overruled the holding of the district court that we should have granted a rehearing, relying on *City of Jersey City v. United States*, 322 U. S. 503.

In closing its opinion the Court said, speaking of the action of the district court:

We think the court misconceived not only the effects of the Commission's action in these cases but also its own function. It is not true, as the opinion stated, that ". . . the courts must in a litigated case, be the arbiters of the para-

mount public interest." This is rather the business of the Commission, made such by the very terms of the statute. The function of the reviewing court is much more restricted. It is limited to ascertaining whether there is warrant in the law and the facts for what the Commission has done. Unless in some specific respect there has been prejudicial departure from requirements of the law or abuse of the Commission's discretion, the reviewing court is without authority to intervene. It cannot substitute its own view concerning what should be done, whether with reference to competitive considerations or others, for the Commission's judgement upon matters committed to its determination, if that has support in the record and the applicable law.

United States v. Detroit & Cleveland Navigation Co., 326 U. S. 236.

This case involved the validity of our order of March 7, 1944, in Docket W-592, *T. J. McCarthy S. S. Co. Common Carrier Application*, 260 I. C. C. 175, granting a certificate of public convenience and necessity under section 309 of the Interstate Commerce Act to the McCarthy Steamship Co., authorizing it to operate as a common carrier by water between Detroit, Mich., and ports on Lake Erie and Lake Superior in the transportation of automobiles.

The district court held that the evidentiary facts did not support our ultimate conclusion that future public convenience and necessity required the proposed operations by applicant. After reciting the factual findings of the report the district court said "Upon these evidentiary facts the Commission found that there had been a definite need for applicant's vessels in the transportation of motor vehicles between Detroit and Lake Erie ports before the cessation of the manufacture of motor vehicles for civilian use," and further that "there would be a like need for them in that service at the termination of the War, or when normal production and shipment by water of motor vehicles for civilian use was resumed." Construing the finding of the need for applicant's vessels as a finding of the need for the carrying capacity represented thereby, the district court held there was no support for the finding of past or future need in absence of a finding that there was no other carrying capacity available to existing certificated carriers beyond that furnished by applicants. As to this situation, the district court stated that the record establishes the contrary.

The important holdings in the Supreme Court's opinion, which reversed that of the district court, are:

1. The case is not one in which service is presently rendered and a newcomer seeks entry to the field.
2. The provisions of section 309 (c) entail a prophecy so far as future requirements are concerned.
3. The Commission's prophecy was based on—
 - A. Earlier service which had been discontinued during the war.
 - B. The likely requirements of the future.

C. The ability of existing carriers to effect expeditious resumption of service at the war's end.

4. Requiring the Commission before granting a certificate to find that actual inability on part of existing carriers to acquire facilities necessary for future transportation needs would constitute a limitation on its powers not found in the act.

5. The Commission has been entrusted with a wide range of discretionary authority in determining whether certificates of convenience and necessity shall be granted.

6. The Commission's doubt that public interest will be adequately served if resumption of service is left to existing carriers, is entitled to the same respect as its expert judgment on other complicated transportation matters.

McAllister Lighterage Lines, Inc., v. United States, 327 U. S. 655.

In this case, the Supreme Court sustained our report and order of February 7, 1944, in Docket No. W-81, *McAllister Lighterage Line, Inc., Contract Carrier Application*, 250 I. C. C. 803. In this proceeding we denied application under the "grandfather" clause of section 309 (a) for a certificate to engage in transportation of general commodities by water as a common carrier for hire and to render a general towage service for hire over routes along the Atlantic seaboard and certain inland waterways. The district court sustained our order, and the Supreme Court affirmed, in an opinion which points out that from 1933 through 1939 appellant's operations were confined primarily to exempt operations in the New York Harbor area, and that since January 1, 1940, its fleet had been engaged almost exclusively within the New York Harbor area in the performance of lighterage and other work essential to the war effort. Consequently it claimed that this was an interruption of service beyond its control. In its opinion the Supreme Court said:

Failure to prove that such an interruption [after January 1, 1940] was beyond the applicant's control leads to a forfeiture of "grandfather" rights. As to that issue we agree with the District Court that the Commission made adequate findings that appellant failed to show continuity of service subsequent to January 1, 1940, and that there was no recognizable excuse for the lack of service. The Commission expressly found that applicant "is not holding itself out at the present time to perform such transportation" and that it "has considerable facilities available at the present time, the use of which it voluntarily had confined to exempt transportation within the limits of New York Harbor." This clearly means that, in the Commission's view, the war emergency did not compel appellant to restrict its activities to exempt operations in the harbor area, thereby making the proviso of Section 309 (a) inapplicable. That conclusion, we believe, is amply supported by the evidence and contravenes no statutory rule.

There was no evidence before the Commission that appellant's war work was other than voluntary in character. * * *

Appellant's activities had been confined to the New York harbor area since

1933, long before the outbreak of the war. In the absence of any attempt to expand the activities and in the absence of proof of any governmental restriction, it was reasonable to find that appellant voluntarily chose to continue its activities on a limited scale. Such a choice may well have been dictated by considerations of profit and convenience. That these limited activities coincided with war-time needs does not necessarily prove that they were other than voluntary in nature. Much activity in recent years furthered the war effort although it was profitable and although it was done without compulsion by public authority.

The Commission was therefore justified in concluding that appellant's failure to engage in bona fide operations since January 1, 1940, was due to circumstances other than those over which appellant had no control. Appellant accordingly forfeited whatever "grandfather" rights it might have had.

Smith, Trustee of the Property of Hoboken Manufacturing Railroad Co., Debtor, v. Hoboken Railroad, Warehouse and Steamship Connecting Co., 328 U. S. ———.

It appeared from the facts in this case that the major part of the right-of-way of the Hoboken Manufacturers Railroad Co., a terminal switching railroad along the New Jersey shore, is held under a 99-year lease from the Hoboken Railroad, Warehouse and Steamship Connecting Co., and Hoboken Land & Improvement Co. In 1943 the railroad company filed a petition for reorganization in bankruptcy under section 77, in the Federal district court at Newark, N. J. The petition was approved and Forest S. Smith was named trustee. The owning concern advised the trustee that it would seek termination of the lease. The district court granted the request for cancelation of the lease, holding that the appointment of a trustee was a breach of the terms of the lease. The Circuit Court of Appeals for the Third Circuit affirmed the decision of the district court. 150 Fed. (2d) 921.

The Supreme Court reversed the lower court's decision, applying the rule of section 70 (b) of the Bankruptcy Act, which makes an express covenant of forfeiture in a lease enforceable against a bankruptcy trustee, and found "no provision in section 77 which suggests that Congress intended to make that rule inapplicable in case of railroad reorganizations," and therefore concluded that an express covenant of forfeiture in a railroad lease is enforceable against the bankruptcy trustee of a lessee railroad in reorganization.

However, according recognition to the fact that we had the primary responsibility for formulating plans of reorganization under section 77, the Court held that the covenant of forfeiture should not be enforced by the bankruptcy court prior to a determination by us that such step would be consistent with the reorganization requirements of the lessee. The Court said:

If the reorganization court decrees a forfeiture in advance of consideration of the problem by the Commission, it interferes with the functions entrusted to the Commission under section 77. * * * If forfeiture of leases can be de-

creed without prior reference of the matter to the Commission, it may be seriously embarrassed in preparing the plan which it deems necessary or desirable for the reorganization of the debtor. The federal policy embodied in section 77 can prevent enforcement of the engagements of the debtor pursuant to their terms. * * * The District Court should stay its hand pending a decision by the Interstate Commerce Commission on the questions.

Thompson, Trustee, The St. Louis, Brownsville and Mexico Ry. Co., Debtor, v. The Texas Mexican Ry. Co., 328 U. S. —.

This case involved a contract between the St. Louis, Brownsville and Mexico Railway Co. and The Texas Mexican Railway Co., whereby the former agreed to use part of the latter's line between Robstown and Corpus Christi, Tex., and to make use of the terminal facilities of the Texas Mexican at Corpus Christi. Subsequently the Brownsville went into bankruptcy and the Texas Mexican gave notice of intention to terminate the trackage rights. The lower court upheld the Texas Mexican's authority to terminate the lease, but the Supreme Court reversed this view and remanded the case to us. The Court held, among other things, that the Texas Mexican might invoke our jurisdiction under section 1 (18) and make application for abandonment of operations by Brownsville or its trustees. "There is no requirement in section 1 (18) that the application be made by the carrier whose operations are sought to be abandoned." The Supreme Court reversed, as premature, the State court's adjudication that a trackage contract, pursuant to which a reorganizing railroad had leased tracks from another railroad, was terminated by the lessor's invocation of an escape clause. The State court's award of damages to the lessor for the use of the tracks by the trustee was set aside for the same reason. Decisive of the issue were the rulings (1) that the status quo of the trackage agreement should have been maintained until we arrived at a decision as to the proper treatment of the agreement in the reorganization proceedings, and (2) that no certificate of abandonment of the trackage contract had been obtained as required by section 1 (18) of the Interstate Commerce Act. The Court said: "It is one of the Commission's high functions to protect the public interest against unfair or oppressive financial practices which in the past led to such great havoc and disaster. That policy would be undermined if the carriers could repair to courts for determination of the conditions under which trackage rights could be secured. Then jury verdicts or settlements would take the place of the expert and informed judgment of the Commission."

Holding untenable the contention that the trackage rights envisioned by section 5 (2) (a) of the Interstate Commerce Act are consensual arrangements between the parties, and that we have no authority to force a trackage agreement on a carrier, the Court pointed

out that it was "dealing here with an existing operation, not with a case where one carrier seeks to initiate a new one by acquiring the right to run its trains over the tracks of another. The Commission has the power under section 1 (18) to refuse to allow abandonment of the operations."

With respect to the question of the rental to be paid by the lessee for the use of the facility in the event we refused to allow abandonment of the operations, the Court concluded that "at least in that situation the Commission has the power * * * to fix a reasonable rental for the use of the facility * * * regardless of the consent of [the lessor]."

Schenley Distillers Corp. v. United States, 326 U. S. 432.

In this case the Supreme Court sustained the validity of our order of November 25, 1944, in Docket No. MC-103763 (Sub. No. 1), *Schenley Distilleries Motor Division, Inc., Contr. Car. Ap.*, 44 M. C. C. 171, wherein we held that Motor Division, which transports traffic for various Schenley subsidiaries for compensation, is not a private carrier but a contract carrier. We had refused to treat the various subsidiaries as a single commercial enterprise within the definition of "private carrier" in part II of the Interstate Commerce Act. From a decision of the district court (61 Fed. Supp. 981) sustaining our action, an appeal was taken to the Supreme Court, which, without awaiting oral argument but upon consideration of our motion to affirm and a response thereto, affirmed the decision of the lower court. The Court held that the distilleries company's wholly owned subsidiary, which renders transportation service for compensation to its parent and to other corporations owned or controlled by the parent, is a "contract" and not a "private" carrier under part II and, as such, requires a permit. The Court ruled that corporate entities may not be disregarded when they were created to secure certain advantages, if no violence to the legislative purpose is done by treating each corporate entity as a separate legal person. The opinion states that "one who has created a corporate arrangement chosen as a means of carrying out his business purposes, does not have the choice of disregarding the corporate entity in order to avoid the obligations which the statute lays upon it for the protection of the public." The Court also held that the parent corporation is not a proper party plaintiff in an action to set aside our order, and that the filing of an application for a permit with a request that the application be deemed as not required is a proper method of raising the issue of whether a carrier is subject to the act, the order entered on such proceeding being reviewable.

Iversen v. United States, 327 U. S. 767.

Acting favorably on our motion to affirm without awaiting oral

argument, the Supreme Court in this case affirmed the decision of the lower court (63 Fed. Supp. 1001), upholding the validity of service orders entered by us (Nos. 180,394, and 396) increasing the demurrage charges on refrigerator cars, reducing the free time by providing that Sundays and holidays should be included in computing free time, and interdicting the reconsignment privilege on perishable traffic unless it was taken within 48 hours, and further providing that if the reconsignment, diversion, et cetera, was not ordered within 48 hours, the separately established rates to and from the reconsignment point would apply.

El Dorado Oil Works v. United States, 328 U. S. —.

In this case, the Supreme Court sustained our report and order of April 10, 1944, Docket No. 28515, Allowances for Privately Owned Tank Cars, wherein we held that the rental paid by the El Dorado Oil Works to the General American Tank Car Corp., under a lease agreement, was the only cost incurred by the former in furnishing the tank cars in which its shipments moved, and that the payment of an allowance to the Oil Works by the rail carriers or the Tank Car Corp. in excess of such rental would be unjust and unreasonable. The lower court had dismissed the case on the ground that the order was not a reviewable one. While the Supreme Court agreed with the lower court that the suit should be dismissed, it did so on different grounds, holding that the order was reviewable under the *Rochester Telephone* decision, 307 U. S. 125, and our action was within our authority, supported by evidence, and a compliance with the Court's former decision in 308 U. S. 422. The Court further held that we had authority to determine the justice and reasonableness of the mileage allowances which the shipper was to receive on past transactions; that we were not required to fix uniform future rates for all shippers or shipper-lessees. The Court declared that we had treated all shipper-lessees uniformly, since our action permitted none to receive allowances exceeding the rental it paid, and the fact that the freight was not paid by the shipper but by the consignees does not preclude a finding that rebates or concessions were received by the shipper.

Akin v. United States, 327 U. S. 766.

Without awaiting oral argument, the Supreme Court affirmed the decision of the district court sustaining our order of October 21, 1944, in Docket No. MC-52459, Austin F. Akin Common Carrier Application, wherein we found applicant had not established any "grandfather" rights as a common carrier by motor vehicle of general commodities between Fort Worth, Tex., and New Orleans, La., serving intermediate and off-route points. The district court, after full opinion, sustained our action (62 Fed. Supp. 391) and its action was

affirmed by the Supreme Court without formal opinion and on authorities cited.

Howard Hall v. United States, 328 U. S. —.

Following full oral argument, the Supreme Court affirmed the decision of the district court sustaining our order of November 22, 1944, in Docket No. MC-42318, *Howard Hall Co., Inc., Common Carrier Application*, 44 M. C. C. 820, insofar as it denied authority to applicant to operate as a common carrier of general commodities, with certain exceptions, between points in Alabama and other States, over irregular routes. From the action of the district court sustaining our order, an appeal was taken to the Supreme Court, which, on May 6, 1946, affirmed the lower court without formal opinion and on authorities cited.

Other decisions of interest in connection with our work were:

Howitt v. United States, 327 U. S. —.

The Supreme Court in this case held that petitioners, three ticket sellers and one diagram clerk in the employ of a railroad at Miami, Fla., who sold tickets to passengers above the tariff fares, were properly found guilty by the lower court of conspiracy to violate the Interstate Commerce Act. The claim that the provisions of the act relied upon by the prosecution, particularly section 10, were aimed only at railroads was overruled, the Court saying:

Evans v. United States, 328 U. S. —.

On October 14, 1946, in a *per curiam* opinion, the Supreme Court granted our motion to affirm and sustained our report of March 29, 1945, in Docket No. MC-30559, *Evans Common Carrier Application*, 44 M. C. C. 815, wherein we had denied certain rights under the "grandfather" clause for lack of proof. Our action was sustained by the district court, 65 Fed. Supp. 183, and in affirming the Supreme Court did so on the authority of prior decisions cited in the order of affirmance.

General Transportation Co. v United States, 328 U. S. —.

On October 14, 1946, the Supreme Court granted our motion to affirm in this case, sustaining our report and order of November 1, 1944, in Docket No. MC-F-2405, *Beacon Fast Freight Co., Inc.—Purchase—Hardy*, 39 M. C. C. 830. The lower court's decision is reported in 65 Fed. Supp. 981, and in affirming the Supreme Court simply directed attention to sections 5 (2) (a), 302 (a) (14), and 212 (a) of the Interstate Commerce Act, as amended.

One of the primary aims of the Interstate Commerce Act and the amendments to it was to establish uniform treatment of users of transportation facilities * * *. Railroad employees can accomplish invidious transportation dis-

ermination, whether or not their conduct is approved or participated in by their superiors * * *. The * * * Act imposes the same duty on ticket sellers and clerks of common carriers as that imposed on railroad officers and other employees, to treat all the public alike as to the terms and conditions of transportation. Railroad accommodations are thus not to depend upon who will or can pay more because of greater need or a longer purse.

Reconstruction Finance Corp. v. Denver & Rio Grande Western R. Co., 327 U. S. —.

In this case the Supreme Court upheld our plan of reorganization for the debtor, and set aside the decision of the Circuit Court of Appeals holding the plan invalid in certain respects, principally for failure to afford more protection to the general bondholders. The Supreme Court held that the provisions of the plan for payment of senior bondholders in full by the issuance of new securities and common stock, the effect of which was to substantially deliver the company to them and to wipe out 90 percent of the general bondholders' claims, was fair and equitable under section 77 (e) of the Bankruptcy Act, in spite of the claim that it was inequitable to permit the reorganized company to retain war-swollen assets in excess of amount necessary for operating capital, and in spite of the failure to provide for equitable distribution of future wartime earnings. The Court also held the plan not invalid on the theory that a valuation of the property of the company was fixed almost entirely on the basis of the railroad's prospective earning power, with wartime earnings and expected increase from plants constructed during the war ignored. The general-mortgage bondholders were held to be not "reasonably justified" in rejecting the plan, under the terms of section 77 permitting a district court to confirm the plan if, among other things, the court is satisfied that the rejection of the plan was not reasonably justified.

The Supreme Court rejected the contention, upheld by the circuit court, that free cash in excess of operating capital needs and large earnings from war business after the date of the plan, should be for the benefit of the general bondholders. It pointed out that, under the plan, the senior bondholders did not receive all the new senior securities in the strict order of their old priorities, and that, therefore, "a part of the compensation to senior claimants for their loss of position was the opportunity to participate in war earnings."

Furthermore, the opinion continues, "the error of the Circuit Court in its holding * * * lies in its assumption that the senior bondholders were paid in full by the securities allotted to them without also accepting the determination of the Commission that the assets represented as of [the date of the plan] and all subsequent earnings were a part also of the common stock that was awarded the senior bondholders."

On October 28, 1946, the Supreme Court denied petition for rehearing in this case.

Railroad Retirement Board v. Duquesne Warehouse Corp., 326 U. S. 446.

The Supreme Court held, in this case, that the Duquesne Warehouse Co., operating two warehouses owned and leased to it by the Pennsylvania Railroad Co., was an "employer" within the Railroad Retirement Act and that its employees were entitled to the benefits of that act.

After reviewing the activities of Duquesne, the Court set forth the respective arguments of the parties as follows:

Duquesne argues on the basis of that legislative history that any service "in connection with the transportation" of property or any service "in connection with" the receipt, etc., of "property transported by railroad," as used in the present Acts, means that kind of activity which is defined by the Interstate Commerce Act as forming a part of transportation service. On the other hand, the Board argues that the statutory definition of "employer" is not so restricted. It stresses the broad sweep of the statutory language and the purpose to bring under the Act affiliates which carry out portions of the railroad's business.

Concerning these arguments the opinion reads:

We do not find it necessary to resolve that controversy. At the very least the phrases in question embrace activities which form a part of transportation service within the meaning of the Interstate Commerce Act. Duquesne regularly performs service of that character. It is, therefore, an "employer" within the meaning of the present Acts.

The Court concluded that it was sufficient for the disposition of the case that the loading and unloading services performed by Duquesne are services performed "in connection with the transportation of * * * property by railroad."

Meyer v. Fleming, 327 U. S.—.

In this case the Supreme Court held that petitioner, the owner of a substantial number of shares of stock of the St. Louis-Southwestern Railroad Co., who had filed a claim for the benefit of that carrier in the bankruptcy proceedings which previously had been instituted under section 77 of the Bankruptcy Act for the reorganization of the Chicago, Rock Island & Pacific Railway Co., had a legal right, when the St. Louis-Southwestern subsequently filed a petition under section 77, to have his claim considered by the court. The provisions of section 77, which gave the reorganizing court exclusive jurisdiction of the debtor and its property and which gave a trustee appointed in those proceedings the title and powers of other bankruptcy trustees, were held not to preclude this suit.

The Supreme Court, after pointing out that litigation instituted by a corporation may not be defeated merely by reason of the fact that

it has become a bankrupt, held that there was nothing to justify a different rule in the case of stockholders' derivative suits. "They are likewise suits to enforce a corporate claim. They are one of the remedies which equity designed for those situations where the management through fraud, neglect of duty or other cause declines to take the proper and necessary steps to assert the rights which the corporation has. The stockholders are then allowed to take the initiative and institute the suit which the management should have started. * * *

The reason of policy for holding that ordinary suits to enforce a corporate claim are not abated when the corporation is adjudged a bankrupt * * * are equally applicable here. The claim sought to be enforced in a derivative suit may be an important asset of the estate. It might be lost to the estate through the operation of statutes of limitations, if the trustee * * * were required to start anew. As in case of ordinary suits to enforce corporate claims, [the trustee] should be allowed a choice to let the suit continue under the stockholders' auspices; to intervene in it; to start a new suit; or, in case he deems it more provident from the point of view of the estate to make a settlement of the claim or to reserve it for the reorganized company, to cause it to be abated."

The Court conceded that the absence of the corporation was a proper basis for an objection to the claim, in view of the fact that the corporation is a necessary party in a stockholders' derivative suit. Whether such an objection was made or not, the opinion continued, the reorganization court should allow the claim to be amended by joining the stockholders' corporation or its trustee, and should disallow the claim only if it should be established that its continued prosecution would be inconsistent with the plan of reorganization or the administration of the affairs of the corporation.

Boutell v. Walling, 327 U. S. 463.

This case involved the applicability of the Fair Labor Standards Act to employees of the Boutell Service Company, separate from the Boutell Drive-Away Co., engaged in the transportation of automobiles and army equipment in interstate commerce. The employees of the Service Company are mechanics engaged in greasing, repairing, servicing, and maintaining the transportation equipment owned and operated by the Drive-Away Company. The court held that the Interstate Commerce Commission, under part II of the Interstate Commerce Act, does not have the power to establish hours of service over the men here concerned, because our jurisdiction is limited to employees of "carriers" and the record here shows that the men in question are employees of the Service Co., which is not a carrier. The absence of power in the Commission to establish the maximum hours

of service of these employees rendered applicable the provisions of the Fair Labor Standards Act to them. The Court said in conclusion it was not necessary to determine whether the Drive-Away Co. is a carrier within the meaning subject to part II.

Morgan v. Virginia, 327 U. S. —.

In this case, the Supreme Court held that a Virginia statute, requiring segregation of the races, is unconstitutional as applied to interstate passengers traveling by bus. Unlike many other State statutes of this nature, the Virginia statute provided expressly that it should apply to interstate as well as intrastate passengers. It required all passenger motor vehicle carriers to separate without discrimination the white and colored passengers in their motor busses, so that contiguous seats would not be occupied by persons of different races at the same time. The appellant, a Negro, was traveling on a motor common carrier from Gloucester County, Va., through the District of Columbia, to Baltimore, Md., the destination of the bus. There were other passengers, both white and colored. On her refusal to comply with a request of the driver to move to a back seat, which was partly occupied by other colored passengers, so as to permit the seat that she vacated to be used by white passengers, a warrant was obtained and appellant was arrested, tried, and convicted of a violation of the Virginia statute, which provided for punishment of the passenger as well as the carrier for violation of its provisions. On writ of error the conviction was affirmed by the Supreme Court of Appeals of Virginia. On appeal to the Supreme Court of the United States two contentions were advanced. First, that the Virginia statute was repugnant to the commerce clause of the Federal Constitution; second, that the powers reserved to the States by the Tenth Amendment include the power to require an interstate motor carrier passenger to occupy a seat restricted for the use of his race. The Supreme Court found that only the first question needed consideration, "for if the statute unlawfully burdens interstate commerce, the reserved powers of the State will not validate it." The conclusion and holding of the Supreme Court was that the statute places an undue burden upon interstate commerce and on that ground is invalid.

Invalidating the statute, the majority opinion, written by Mr. Justice Reed, relied heavily on an early decision of the Court in *Hall v. De Cuir*, 95 U. S. 485.

In the course of its opinion the Court said:

The precise degree of a permissible restriction on State power cannot be fixed generally or indeed not even for one kind of State legislation such as taxation or health or safety. There is a recognized abstract principle however that may be taken as a postulate for testing whether particular State legislation in the ab-

sence of action by Congress is beyond State power. This is that the State legislation is invalid if it unduly burdens that commerce in matters where uniformity is necessary—necessary in the constitutional sense of useful in accomplishing a permitted purpose. Where uniformity is essential for the functioning of commerce, a State may not interpose its local regulation. Too true it is that the principle lacks in precision. Although the quality of such a principle is abstract, its application to the facts of a situation created by the attempted enforcement of a statute brings about a specific determination as to whether or not the statute in question is a burden on commerce. Within the broad limits of the principle, the cases turn on their own facts.

In the field of transportation, there have been a series of decisions which hold that where Congress has not acted and although the State statute affects interstate commerce, a State may validly enact legislation which has predominantly only a local influence on the course of commerce. It is equally well settled that, even where Congress has not acted, State legislation or a final court order is invalid which materially affects interstate commerce. Because the Constitution puts the ultimate power to regulate commerce in Congress, rather than the States, the degree of State legislation's interference with that commerce may be weighed by federal courts to determine whether the burden makes the statute unconstitutional. The courts could not invalidate federal legislation for the same reason because Congress, within the limits of the Fifth Amendment, has authority to burden commerce if that seems to it a desirable means of accomplishing a permitted end.

With reference to the statement of the Virginia Court of Appeals that the statute was passed in the exercise of the State's police power, to avoid friction between the races, Mr. Justice Reed quoted from *Kansas Southern Ry. v. Kaw Valley Dist.*, 233 U. S. 75: "A State cannot avoid the operation of this rule (against undue burdens on interstate commerce) by simply invoking the convenient apologetics of the police power."

United States v. New York Telephone Co., 326 U. S. 638.

In this case the Supreme Court held that the Federal Communications Commission properly ordered the New York Telephone Co. to make accounting changes resulting in a reduction of its surplus by obliterating the difference between book costs, less depreciation, and reproduction cost of plant and instruments purchased from the parent telephone corporation, even though the original accounting entries were legal when made, since they were in accordance with the accounting system previously prescribed for telephone companies by us, and although some of the property in question had been retired prior to the establishment of the Communications Commission. The argument that the Communications Commission could not apply retroactively a new system to write down the plaintiff's surplus was rejected, the Court declaring that the report of the Communications Commission showed that its order was based on the view that, since the company was then legally subject to the requirement of restating its accounts

on the basis of original cost, any excess on its books over the net book cost to American, another subsidiary, must be eliminated. It was also held that the order for change in accounting was not inconsistent with a memorandum filed by the Communications Commission with the Supreme Court, in *American Telephone & Telegraph Co. v. United States*, 299 U. S. 232.

Denver & Rio Grande Western R. Co. v. Reconstruction Finance Corp., *Thompson v. Same*; *Brooks v. St. Louis-San Francisco Ry. Co.*, *Dikes v. Same*; *St. Louis-San Francisco Ry. Co. v. Chase National Bank*, 327 U. S. ———.

On June 10, 1946, the Supreme Court denied petitions for writs of certiorari in the above-entitled cases, thus declining to review a decision of the Circuit Court of Appeals for the Eighth Circuit (153 Fed. (2d) 312), holding that in railroad reorganization proceedings under section 77 of Bankruptcy Act, a reorganization plan reducing the debtor's capitalization to less than its secured indebtedness and excluding unsecured creditors and stockholders from participation, on findings that claims of unsecured creditors and interest of debtor had no value, was fair and equitable; also that we have power, under section 77 of the Bankruptcy Act, to limit total capitalization, and our finding on question of reorganization value is not subject to review; and that interest on secured claims to the effective date of the reorganization plan is entitled to the same priority as the principal.

St. Louis-San Francisco Ry. Co. v. Chase National Bank, 327 U. S. ———.

On June 10, 1946, the Supreme Court denied a petition for writ of certiorari in the above-entitled case, thus declining to review a decision of the Circuit Court of Appeals for the Eighth Circuit (153 Fed. (2d) 319), holding that in railroad reorganization proceedings under section 77 of Bankruptcy Act, bank creditors of the debtor, after approval of a proposed plan of reorganization, were entitled to vacation of injunctive orders entered at inception of reorganization proceedings which restrained them from selling their pledged collateral, since upon approval of reorganization plan, continuance of the injunctive order would be unreasonable and purposeless, the primary purpose of injunction against sale of pledged collateral having been to prevent interference with consummation of the reorganization plan; and that the debtor had no equity in collateral, since the indebtedness to bank creditors far exceeded the value of the pledged collateral held by them.

On October 14, 1946, the Supreme Court denied petition for rehearing.

Phillips v. Baltimore & Ohio R. Co., 327 U. S. —

On June 10, 1946, the Supreme Court denied petition for writ of certiorari in the above-entitled case, thus declining to review a decision of the United States District Court for Maryland (63 Fed. Supp. 542) holding that the provisions of a railroad adjustment plan, sequel to 1938 plan, providing for refunding of notes held by Reconstruction Finance Corporation, extension of maturity of five of its large bond issues, and payment of fixed interest on some bonds only if earnings are sufficient, such deferred interest to be fully cumulative until fully paid, are approved, since the plan has been assented to by two-thirds of all creditors affected, is fair and equitable, and is feasible.

On October 14, 1946, the Supreme Court denied a petition for rehearing.

Baltimore & Ohio R. Co. v. Howard, 327 U. S. —.

On June 10, 1946, the Supreme Court denied petition for writ of certiorari in this case, thus declining to disturb a decision of a State court (63 N. E. (2d) 774) holding that the railroad had violated section 2 of the Safety Appliance Act by permitting the use of a defective coupling device, resulting in injuries to a switchman.

Dure v. Glazebrook, 327 U. S. —.

On May 27, 1946, the Supreme Court denied petition for writ of certiorari to review a decision of the lower court (152 Fed. (2d) 756) involving an action against a railroad company in equity receivership for foreclosure of certain bonds of another railroad, now undergoing reorganization under section 77 of the Bankruptcy Act, whose property had been leased to the railroad in receivership and whose bonds were purchased by the receivership committee under order of court. The railroad had attempted to disaffirm a lease and upon denial thereof by us had operated leased properties under court orders. The railroad filed a petition to remove the cloud upon its title to bonds cast by lessor railroad which claimed that the bonds were impressed with a trust in favor of it or its trustee, and the Circuit Court of Appeals affirmed a judgment in favor of the railroad reorganization committee, on the ground that no trust arose in favor of the lessor railroad, because the purchase price for the bonds was paid from cash in hands of the receivers belonging to creditors of the railroad and not funds due lessor railroad from operation of its properties, and no trust relationship arose from the railroad's operation of lessor's properties under an order of public authority, the railroad's duties under such operating orders being no greater than those of agents of lessor railroad. By denying petition for a writ of certiorari, the Supreme Court declined to disturb this holding.

Lober v. Canadian Pacific Ry. Co., 326 U. S. 797.

On January 28, 1946, the Supreme Court denied certiorari in this case, thus declining to review a decision of the Circuit Court of Appeals for the Eighth Circuit (151 Fed. (2d) 758), wherein the lower court held that in a section 77 proceeding, claims of holders of debtor's 5-percent first-mortgage bonds were not entitled to priority over a claim of debtor's corporate parent as holder of debtor's 4-percent bonds issued under subsequent consolidated mortgage.

Blackford v. Powell, 327 U. S. —.

On February 4, 1946, the Supreme Court denied certiorari in this case, thus declining to review a decision of the Circuit Court of Appeals for the Third Circuit, reported in 151 Fed. (2d) 392, wherein the lower court held that in an equity receivership proceeding for reorganization of the Seaboard Air Line Railway Co., holders of its outstanding 5-percent adjustment mortgage bonds who, in prior proceeding, had refused to exchange bonds on diminished basis for new 6-percent bonds, were barred by laches from obtaining a court order directing the receivers of the railroad to pay them unpaid matured interest on bonds and such amount on principal of bonds as the court might find proper, on the ground that no provision was made for payment of these obligations in the reorganization plan previously approved by the court.

Hartzberg v. New York Central R. Co., 327 U. S. —.

On May 20, 1946, the Supreme Court denied petition for writ of certiorari thus declining to review a decision of a New York State Court (294 N. Y. 641) holding that the Interstate Commerce Act and tariff rules filed thereunder with us govern, to the exclusion of State law, the extent of a railroad company's liability for property lost through negligence while it was held in storage in a baggage room before being checked for interstate transportation.

Cogswell v. Chicago & Eastern Illinois R. Co., 327 U. S. —.

On May 20, 1946, the Supreme Court granted writ of certiorari in this case, and reversed a decision of the Circuit Court of Appeals, Seventh Circuit, entering on that day the following order:

Per curiam: The petition is granted, except as to the question whether the jury could have found respondent guilty of a violation of Rule 152 of the Interstate Commerce Commission. The judgment is reversed. *Tiller v. Atlantic Coast Line R. Co.*, 318 U. S. 54, 67-8; *Bailey v. Central Vermont R. R. Co.*, 319 U. S. 350, 353-4; *Lavender v. Kurn*, No. 50, October 1945 Term.

California v. Edmondson, 328 U. S. —.

On October 14, 1946, the Supreme Court denied a petition for writ of certiorari to review a decision of the Superior Court of California, holding that the State may not prosecute an individual for engaging in business of motor-carrier transportation agent without license from

the Railroad Commission of California, as required by State law, since by reason of our order in *Ex Parte* No. MC-35 (35 M. C. C. 69), setting aside exemption of casual, occasional, or reciprocal transportation of passengers by motor vehicles from Federal regulation under section 203 (b) (9), the Federal Government has provided a method of regulating interstate motor-carrier transportation agents to the exclusion of the State.

By denying certiorari, the Supreme Court declined to disturb this holding.

Suncook Valley R. Co. v. Boston & Maine R. Co., 328 U. S. —.

On October 14, 1946, the Supreme Court denied a petition for writ of certiorari to review a decision of the State Court, reported in 46 Atlantic (2d) 773. This was a suit by a lessor railroad for rent alleged to be due from lessee railroad under lease of tracks, wherein the court held that lessee was not entitled to set off amount claimed for freight received by lessor as a result of the latter's operation of trains over a portion of demised tracks in connection with services rendered certain shippers pursuant to modification of the original lease, because the carrier is not entitled to a division of freight charges unless it earns it by transporting freight over its tracks. The Court had also held that the lease entitled lessee to freight received by lessor only when earned by lessee by operation of its own trains over demised tracks.

By denying certiorari, the Supreme Court declined to disturb this holding.

Moffat Co. v. Southern Pacific Co., 328 U. S. —.

Union Sheep Co. v. Southern Pacific Co., 328 U. S. —.

On October 14, 1946, the Supreme Court denied petition for a writ of certiorari to review a decision of the lower court reported in 154 Fed. (2d) 877, involving an interpretation of the Twenty-Eight Hour Law. The Circuit Court of Appeals had held that the district court had improperly dismissed these suits brought by the railroads against shippers of livestock to recover costs of feeding, watering, and resting livestock in transit pursuant to the provisions of the Twenty-Eight Hour Law, requiring the railroad to render such service at "reasonable expense of the owner" upon a finding that the railroad had failed to provide reasonable cost of or amount of feed supplied to livestock, since under the statute the railroad was entitled to recover reasonable cost of feed furnished. The Circuit Court of Appeals had also held that the court must reopen the case to permit the introduction of further evidence, in the event that the reasonable value of the feed furnished could not be ascertained from the evidence in the record.

By denying certiorari, the Supreme Court declined to disturb this holding.

Orton v. Group of Institutional Investors, 328 U. S. —.

On October 14, 1946, the Supreme Court denied petition for writ of certiorari, thus declining to review a decision of the Circuit Court of Appeals, 155 Fed. (2d) 489, holding that an order of the district court denying a motion to vacate the order consummating confirmed railroad reorganization plan was not appealable, since there is no appeal from the order of consummation itself, and that in view of financial circumstances of the reorganized company, the district court did not abuse its discretion in denying the motion.

Baltimore & Ohio R. Co. v. Thompson, 328 U. S. —.

Thompson v. Baltimore & Ohio R. Co., 328 U. S. —.

In these cases, on October 28, 1946, the Supreme Court denied petitions for writs of certiorari to review a decision of the Circuit Court of Appeals (155 Fed. (2d) 767) involving divisions of rates between eastern and western railroads on joint transportation of Government traffic over equalizing routes. The lower court had held that land-grant rates over equalizing routes under land-grant equalization agreements were not "joint rates" within the meaning of the division sheet, since "joint rates" embraced only commercial rates and excluded rates offered the Government by equalization agreements. It also held that equalizing rates are not subject to the jurisdiction of the Interstate Commerce Commission or the courts, and that one carrier, by inserting conditions and restrictions in its equalizing land-grant contract with the Government, may not make such restrictions binding upon another carrier, without the other carrier's consent.

By denying certiorari on October 28, 1946, the Supreme Court declined to disturb these holdings.

BUREAU OF LOCOMOTIVE INSPECTION

The work of this Bureau is shown in detail in the report of the director, published separately. Except as otherwise stated the report here made is for the fiscal year ended June 30, 1946.

The following tables covering the fiscal years indicated are self-explanatory.

TABLE I.—*Reports and inspections—Steam locomotives*

	Year ended June 30—					
	1946	1945	1944	1943	1942	1941
Number of locomotives for which reports were filed...	41, 851	43, 019	43, 297	43, 064	42, 951	43, 236
Number inspected.....	101, 869	115, 979	117, 334	116, 647	113, 451	105, 675
Number found defective.....	11, 337	11, 975	12, 710	11, 901	10, 970	9, 570
Percentage inspected found defective.....	11	10	11	10	10	9
Number ordered out of service.....	690	506	630	487	474	560
Number of defects found.....	56, 541	53, 367	56, 617	51, 350	44, 928	37, 691

TABLE II.—*Accidents and casualties caused by failure of some part of the steam locomotive, including boiler, or tender*

	Year ended June 30—					
	1946	1945	1944	1943	1942	1941
Number of accidents	419	410	403	319	222	153
Percent increase or decrease from previous year.....	¹ 2.2	¹ 1.7	¹ 26.3	¹ 43.7	¹ 45.1	6.7
Number of persons killed	10	20	25	27	34	15
Percent increase or decrease from previous year.....	50	20.0	7.4	20.6	¹ 126.7	16.7
Number of persons injured	439	429	466	373	227	182
Percent increase or decrease from previous year.....	¹ 2.3	7.9	¹ 24.9	¹ 64.3	¹ 24.7	19.1

¹ Increase.TABLE III.—*Accidents and casualties caused by failure of some part or appurtenance of the steam locomotive boiler* ¹

	Year ended June 30—							
	1946	1945	1944	1943	1942	1941	1915	1912
Number of accidents	156	141	141	129	81	43	424	856
Number of persons killed	10	13	17	25	30	12	13	91
Number of persons injured	165	154	194	173	83	64	467	1,005

¹ The original act applied only to the locomotive boiler.TABLE IV.—*Reports and inspections—Locomotives other than steam*

	Year ended June 30—					
	1946	1945	1944	1943	1942	1941
Number of locomotive units for which reports were filed	6,616	6,094	5,139	4,351	3,957	3,389
Number inspected	10,908	9,888	7,711	6,847	6,728	5,558
Number found defective	499	447	378	298	358	319
Percentage of inspected found defective	4.6	4.5	4.9	4.4	5	6
Number ordered out of service	17	16	9	6	12	21
Number of defects found	1,385	1,212	1,026	849	928	905

TABLE V.—*Accidents and casualties caused by failure of some part or appurtenance of locomotives other than steam*

	Year ended June 30—					
	1946	1945	1944	1943	1942	1941
Number of accidents	38	29	17	15	9	11
Number of persons killed		1				
Number of persons injured	56	40	23	18	9	11

INVESTIGATION OF ACCIDENTS AND GENERAL CONDITION OF LOCOMOTIVES

All accidents reported to the Bureau as required by the law and rules were carefully investigated and appropriate action taken to prevent recurrence as far as possible. Copies of reports of accident

investigations were furnished to interested parties on request, and otherwise used in an effort to reduce the number of such accidents.

The fiscal year covered by this report is the first year in the 35 years' history of the Bureau in which no deaths occurred in any accident other than boiler explosions caused by overheating of crown sheets.

STEAM LOCOMOTIVES

Four hundred and nineteen accidents occurred in connection with steam locomotives resulting in 10 deaths and 439 injuries. This was an increase of 9 accidents, a decrease of 10 in the number of persons killed, and an increase of 10 in the number of persons injured compared with the preceding year.

During the year, 11 percent of the steam locomotives inspected by our inspectors were found to have defects that should have been corrected before the locomotives were put into use; this represents an increase of 1 percent compared with the preceding year. Six hundred and ninety locomotives were ordered withheld from service by our inspectors because of defects which rendered the locomotives immediately unsafe; this was an increase of 184 compared with the preceding year. Locomotives found defective were not ordered out of service if such defects did not render them unsafe for the service to which they were put.

EXPLOSIONS AND OTHER BOILER ACCIDENTS

Eighteen boiler explosions occurred in the fiscal year; all were caused by overheating of the crown sheets due to low water. Ten employees were killed in these accidents and 22 were injured. There was an increase of 10 in the number of boiler explosions, an increase of 1 in the number of employees killed, and an increase of 10 in the number of employees injured compared with the preceding year.

Two of the explosions occurred on locomotives hauling hospital trains, 2 occurred on locomotives in passenger-train service, 11 occurred on locomotives in freight-train service, and 3 occurred while the locomotives were in charge of engine watchmen.

One of these accidents, in which two employees were killed, occurred on the leading locomotive of a double-header which was hauling a hospital train at a speed of 20 miles per hour. The boiler was torn from the running gear, struck the adjacent track, then bounded and came to rest about 350 feet from the point of explosion, and 90 feet beyond the point where the train stopped. Parts of the wreckage were scattered over a radius of 751 feet. In the other accident in which the locomotive was hauling a hospital train at a speed of 45 or 50

miles per hour, the explosion broke the front-end door hinges; the door was found 437 feet ahead and 186 feet to the left of the point of explosion, and parts of the headlight were found from 300 to 400 feet ahead and from 166 to 190 feet to the left. The train was brought to a stop in 2,090 feet by the conductor, who applied the brakes from the caboose upon seeing a cloud of black smoke around the locomotive. One employee was killed and one injured in this accident.

One employee was killed and one injured in one of the two explosions that occurred while the locomotives were hauling passenger trains. The locomotive involved in this accident was the second locomotive of a double-header, and the explosion occurred while the train was running at a speed of 65 miles per hour. The train was stopped by the engineer of the leading locomotive about 2,000 feet from the point of the explosion. Two employees were injured in the other explosion which occurred while the train was running at a speed of about 15 miles per hour. In this instance the two employees were blown from the cab, and the train was stopped in a distance of about 1,000 feet by the conductor with the conductor's brake valve.

Four employees were killed and 17 injured in the 11 explosions that occurred on locomotives in freight-train service. One of these accidents caused derailment of the locomotive and tender and derailment of 13 cars, 8 of which were destroyed. The locomotive, tender, and cars were massed within a space of 150 feet on and adjacent to the track about 250 feet ahead of the point of explosion.

Two employees were killed and one injured in the three explosions that occurred while the locomotives were in charge of engine watchmen. In two instances, in each of which the watchman was killed, the force of the explosions tore the boilers from the running gears. One of these boilers was blown upward and forward and alighted on a rail of the track upon which the locomotive was standing, 193 feet from the point of explosion; the rail was broken by the impact and a depression was made in the roadbed approximately 8 feet deep. Parts of the wreckage were scattered in various directions over a radius of 900 feet. Electric-power service of the city in which the explosion occurred and that of a nearby army camp was disrupted by falling parts which severed power lines. The other boiler that was torn from the running gear apparently ascended vertically, and in falling the boiler back head struck the right main rod, and the boiler came to rest in an upright position, 12 feet ahead and 12 feet to the right of the point of explosion, and parallel to the running gear. Parts of the wreckage were scattered in various directions over a radius of 272 feet.

One hundred and thirty-eight boiler and appurtenance accidents other than explosions, in which no fatalities occurred, resulted in

injuries to 143 employees. This was an increase of five accidents, a decrease of four deaths, and an increase of one injury compared with the preceding year.

EXTENSION OF TIME FOR REMOVAL OF FLUES

One thousand seven hundred and twenty-seven applications were filed for extension of time for removal of flues, as provided in rule 10 of the Rules and Instructions for Inspection and Testing of Steam Locomotives. Our investigations disclosed that in 240 of these cases the condition of the locomotives or other circumstances were such that extensions could not properly be granted. Fifty-two were in such condition that the full extension requested could not be authorized, but extensions for shorter periods of time were allowed. Fifty-eight extensions were granted after defects disclosed by our investigations were required to be repaired. Sixty-nine applications were canceled for various reasons. One thousand three hundred and eight applications were granted for the full period requested.

LOCOMOTIVES PROPELLED BY POWER OTHER THAN STEAM

Thirty-eight accidents, resulting in injuries to 56 employees, occurred in connection with locomotives propelled by power other than steam; no fatalities were caused by these accidents. This represents an increase of 9 in the number of accidents, a decrease of 1 in the number of persons killed, and an increase of 16 in the number of persons injured compared with the preceding year.

During the year 4.6 percent of the locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before the locomotives were put into use; this represents an increase of 0.1 percent compared with the results obtained in the preceding year. Seventeen locomotives were ordered withheld from service by our inspectors because of the presence of defects that rendered the locomotives immediately unsafe, an increase of 1 as compared with the preceding year.

SPECIFICATION CARDS AND ALTERATION REPORTS

Under rule 54 of the Rules and Instructions for Inspection and Testing of Steam Locomotives, 170 specification cards and 5,080 alteration reports were filed, checked, and analyzed. These reports are necessary in order to determine whether or not the boilers represented were so constructed or repaired as to render safe and proper service and whether the stresses were within the allowed limits. Corrective measures were taken with respect to numerous discrepancies found.

Under rules 328 and 329 of the Rules and Instructions for Inspection and Testing of Locomotives Other Than Steam, 627 specifications and 112 alteration reports were filed for locomotive units, and 162 specifications and 149 alteration reports were filed for boilers mounted on locomotives other than steam. These were checked and analyzed and corrective measures taken with respect to discrepancies found.

BUREAU OF MOTOR CARRIERS

The first full year of the postwar period has been one of increased activity on the part of this Bureau as well as the carriers with which it deals. There has been a decided upsurge in applications for new and extended operating authority, for transfers of authority, and for resumption of operations suspended during the emergency. This presages an end to the falling off noted during this year and the last in the number of property carriers holding certificates and permits for permanent operations. The slight drop (about 1 percent each year) has been more than offset, however, by the greatly increased number of carriers taking advantage of the second proviso of section 206 (a) under which one-State operators may conduct common-carrier operations in interstate commerce without securing a certificate from us, and by carriers holding temporary or emergency authority. The number of outstanding passenger certificates has continued to rise.

Tonnage has increased considerably since our last report and is still climbing. Despite this, many carriers are finding profitable operation extremely difficult due to labor trouble, shortages, and rising costs which offset rate advances. There has been considerable revamping of operations and reorganizing among carriers. An increasing tendency to withdraw from participation in through routes and joint rates has been noted. Embargoes, mostly because of labor difficulties, have gone far above the figure at this time last year. Such assistance as we are able to give is being rendered.

Mention was made last year of progress made in clarifying commodity descriptions contained in operating authorities. In *Modification of Permits—Packing House Products*, 46 M. C. C. 23, division 5 decided that, upon application of the holders, permits of motor contract carriers authorizing the transportation of packing-house products will be modified to allow the transportation of a detailed list of commodities handled by meat packers. Similar determinations are contemplated as to other troublesome situations.

As the highway accident toll throughout the country rose with the resumption of near normal over-the-road passenger car travel, we have become increasingly concerned with the safety practices of motor carriers. As detailed elsewhere in this report, our best efforts are being

concentrated on reducing to a minimum the number of accidents chargeable against motor carriers subject to our jurisdiction.

Work is continuing on the revision of the uniform system of accounts, prescribed for class I motor carriers of property, to show in more detail their cost of operation. The number of these carriers increased by 98 during the year.

Mention of progress in regulating brokers is made in another part of this report. Nearly twice the number of applications to conduct broker operations were filed this year than in the previous year, but the total number of brokers holding authority has remained constant for several years.

SECTION OF ACCOUNTS

The Section of Accounts is primarily responsible for the promulgation of uniform systems of accounts and the design of annual and periodical reports to be filed by carriers subject to part II of the act, as well as the receipt and examination of such reports. So far, uniform systems of accounts and report forms have been prescribed only for class I motor carriers which are defined as those having average gross operating revenues of \$100,000 or more annually from motor-carrier operations. All class I motor carriers are required to file quarterly and annual reports under section 220 of the act. These reports are subjected to a detailed examination for the purpose of detecting errors, omissions, and inconsistencies. On October 31, 1946, there were 2,099 carriers of property, 337 carriers of passengers, and 33 carriers of both property and passengers subject to these regulations, as contrasted with 2,001 carriers of property, 305 carriers of passengers, and 35 carriers of both property and passengers on the same date last year.

The following shows the number of quarterly and annual reports received and examined for errors in preparation and improper accounting practices during the year ended October 31, 1946 (corresponding data for the preceding year are also given) :

Kind of report	1946		1945	
	Received	Examined	Received	Examined
Monthly reports—passenger ¹	2,928	2,988	3,819	3,828
Quarterly reports—passenger.....	1,377	1,695	1,247	906
Quarterly reports—property.....	8,171	8,361	7,543	7,114
Annual reports—property and passenger.....	2,293	2,877	2,059	1,471

¹ Requirement for filing monthly reports canceled by order of July 15, 1946.

Our accountants conducted examinations of the accounts and records of 547 class I motor carriers, which were informed of changes necessary to bring their accounting procedures into conformity with our requirements. These examinations demonstrated the desirability of more frequent and more intensive field examinations of these accounts and records than we have heretofore been able to make.

The section handled 373 accounting cases in connection with mergers, consolidations, and acquisitions of control under section 5, and 2,511 financial and income statements filed with applications for transfer of rights under section 212.

Our order entered March 1, 1946, required class I motor carriers of property having revenues of \$400,000 or more for 1945 to report in their 1946 annual reports supplemental information for the period April 1 to December 31, 1946.

A study of depreciation practices of class I motor carriers was begun with a view to prescribing rates of depreciation for such carriers.

Other duties performed during the year included the preparation of financial and statistical exhibits, and other data, for introduction in rate cases; examinations of accounts and records of motor carriers for the purpose of obtaining evidence of alleged violations of the act, and regulations issued pursuant thereto for use by the Section of Law and Enforcement.

Sixty-eight man-days were expended on audits of accounts of eight motor carriers operated by the Office of Defense Transportation under executive order of the President.

SECTION OF CERTIFICATES

As our annual report for 1937 described in detail the duties of the Section of Certificates, this report will consist of (a) a summary of the status of the various applications handled by this section; (b) a statement showing the number of carriers, other than temporary, and brokers whose operations are subject to regulation under part II of the act; and (c) summarized information relating to (1) the issuance of identification plates; (2) transfers and leases under section 212 (b); (3) transfers, leases, and authorizations of issuance of securities under sections 5 and 214, and temporary authority under section 210a (b); (4) temporary authority granted under sections 210a (a) and 204 (f); (5) applications for certificates of exemption under section 204 (a) (4a); and (6) applications for authority to suspend operations temporarily under section 204 (f).

Applications for certificates, permits, licenses, temporary authority, exemption, and operations under second proviso, section 206 (a) filed since enactment of part II of the Interstate Commerce Act

	Cumulative to Oct. 31, 1945	Nov. 1, 1945, to Oct. 31, 1946	Cumulative to Oct. 31, 1946
"Grandfather" applications filed on and prior to February 12, 1936.....	82,766	11	82,767
"Grandfather" applications filed after February 12, 1936.....	6,751	9	6,760
Applications for authority to institute new operations.....	22,829	3,563	26,392
Applications for authority to conduct broker operations.....	1,267	45	1,312
Statement under second proviso section 206 (a).....	3,997	703	4,700
Applications for temporary authority under sections 210 a ¹ (a) and 204 (f).....	22,763	3,248	26,011
Applications for exemption of one-State operations under section 204 (a) (4a).....	102	8	110
Total applications received.....	140,475	7,577	148,052
Applications approved.....	46,873	4,249	51,122
Applications denied, dismissed, or withdrawn.....	92,009	1,887	93,896
Applications pending.....	1,593	1,441	² 3,034
Total.....	140,475	7,577	148,052

¹ One application previously counted "Registration" transferred to "Grandfather" applications.

² Of the 3,034 applications pending, 31 are filed under the "grandfather" clauses of the act, sections 206 (a) and 209 (a), by motor carriers who claim to have been in bona fide operation on June 1, 1935, as common carriers, or July 1, 1935, as contract carriers. The carriers filing such applications are authorized by the act to continue operations pending determination of their applications.

The following table shows the number of carriers and brokers engaged in motor-vehicle transportation activities, whose operations are subject to regulation under part II of the act. Motor carriers operating exclusively under temporary authority granted under sections 210a (a) and 204 (f) are not included. The data include carriers issued operating authority but which have been authorized to suspend operations temporarily.

Motor carriers	Cumulative to Oct. 31, 1945	Nov. 1, 1945 to Oct. 31, 1946	Cumulative to Oct. 31, 1946
<i>Property carriers</i>			
Common, issued certificates under section 206 or 207.....	¹ 16,164	-132	² 16,032
Common under second proviso of section 206 (a).....	1,374	366	1,740
Contract, issued permits under section 209.....	3,214	-42	3,172
"Grandfather," no final authority issued.....	72	-15	57
Late "Grandfather," no final authority issued.....	33	-3	30
Total property carriers.....	20,857	174	21,031
<i>Passenger carriers</i>			
Common, issued certificates under section 206 or 207.....	¹ 1,293	28	² 1,321
Common under second proviso of section 206 (a).....	170	32	202
Contract, issued permits under section 209.....	9	0	9
"Grandfather," no final authority issued.....	3	0	3
Late "grandfather," no final authority issued.....	10	-2	8
Total passenger carriers.....	1,485	58	1,543
Total motor carriers.....	22,342	232	22,574
<i>Brokers issued licenses under section 211 of the act</i>			
Property.....	77	2	79
Passenger.....	70	2	72
Total brokers.....	147	4	151

¹ 233 carriers of property and 26 carriers of passengers also conduct some additional operations under the second proviso of section 206 (a).

² 266 carriers of property and 31 carriers of passengers also conduct some additional operations under the second proviso of section 206 (a).

Identification plates.—During the past year, no identification plates were issued on account of war conditions. Plates voided or surrendered after cancelation or transfer of operating authorities, or reported lost or destroyed, total 147,525, leaving outstanding 252,397 valid identification plates in the hands of 17,552 carriers.

Applications for transfer or lease of operating rights under section 212 (b).—There were submitted during the year, 2,707 applications for transfer or lease under section 212 (b); 2,482 such applications were granted and 255 dismissed or denied. To date, 19,101 such applications have been submitted, of which 17,234 have been granted, and 1,615 dismissed or denied. Two hundred and fifty-two are now under consideration.

Applications for transfer or lease of operating rights and for authorization of securities under sections 5 and 214, and for temporary authority under section 210a (b).—Effective March 10, 1946, the Section of Finance was discontinued and certain duties performed by that section were transferred to the Section of Certificates, including the receiving and processing of applications under sections 5, 214, and 210a (b), prior to their assignment to the Section of Complaints for hearing. There were submitted during the year, 317 applications under sections 5 and 214. During the year 341 such applications were disposed of. To date, 3,330 such applications have been submitted, of which 2,518 have been granted and 513 dismissed or denied. Two hundred and ninety-nine are now pending. To date, 1,067 applications under section 210a (b) have been submitted, of which 736 have been granted and 324 dismissed or denied. Seven are now awaiting final disposition.

Temporary authority under sections 210a (a) and 204 (f).—During the past year, 3,248 applications were filed for temporary authority under sections 210a (a) and 204 (f). Upon a showing that there was an immediate and urgent need for service and that there was no carrier within the territory capable of meeting the need, 2,258 such applications were granted. Six hundred and thirteen did not disclose such facts and were denied. The issuance of final orders upon 249 of the applications approved awaits the filing of appropriate rate publications and evidence of insurance. Since 1938, when this type of authority was first authorized, 26,011 applications have been filed, of which 20,425 have been approved, 4,835 denied, and 502 are under consideration. The number of applications for temporary authority filed during the year increased 483 percent over the number filed in the year ending November 1, 1940, before the national emergency was declared.

Applications for exemption under section 204 (a) (4a).—During

the past year, 8 applications were filed for certificates of exemption under section 204 (a) (4a). Eleven certificates of exemption have been released during the year and 6 applications dismissed or denied. To date 110 such applications have been submitted, of which 36 have been issued certificates of exemption and 62 dismissed or denied. Twelve are now under consideration.

Applications for temporary suspension of operations.—There were received during the year 74 applications for authority temporarily to suspend operations under section 204 (f). Since that section was added to the act in March 1942, 3,253 such applications have been received, of which 2,682 have been acted upon, 529 withdrawn, and 42 are under consideration. The majority of these applications have been granted, principally for reasons relating to military service, personnel shortages, changes in industrial production, and wartime bans on nonessential transportation services.

SECTION OF COMPLAINTS

When the Section of Finance was discontinued certain of its work and personnel were assigned to the Section of Complaints. All of the matters formerly handled by the Section of Finance are now delegated to the Section of Complaints, except preliminary docketing and processing of applications and the handling of applications under section 214 of the act.

The following table indicates the condition of the docket of the section for the year ending October 31, 1946 (corresponding data for the year ending October 31, 1945, are also given) :

	1945	1946
Applications for common-carrier certificates, contract-carrier permits, brokers' licenses, and certificates of exemption:		
Received for handling	1, 476	3, 687
Reopened	159	90
Hearings	1, 522	3, 101
Under submission at end of period	212	548
Disposed of, including reopened proceedings:		
Recalled by section of certificates for further handling	22	45
Dismissed	124	355
By effective recommended order	724	1, 863
By report of the Commission or a division of the Commission	429	414
Pending at end of period	1, 134	2, 234
Petitions handled	424	410
Complaints and investigations relating to motor carriers' rates, rules, and practices and investigation and suspension proceedings:		
Formal complaints filed, including subnumbers	21	21
Investigations instituted	5	14
Investigation and suspension proceedings instituted	118	106
Reopened	22	3
Hearings	69	63
Under submission at end of period	45	48
Disposed of, including subnumbers and reopened proceedings:		
Dismissed or discontinued	74	79
By effective recommended order	22	20
By report of the Commission or a division of the Commission	55	32
Pending at end of period	132	145
Petitions handled	19	11

	1945	1946
Finance applications under section 5 of the act:		
Received for handling	340	293
Reopened	13	36
Hearings	125	184
Under submission at end of period	174	63
Disposed of, including reopened proceedings:		
Dismissed	30	40
Transferred to Bureau of Finance	0	4
By report of the Commission or a division of the Commission	281	414
Pending at end of period	290	161
Petitions handled	85	84
Temporary authority applications under section 210a (b) of the act disposed of	126	114
Proceedings to determine whether holders of certificates, permits, and licenses are complying with the terms of the act, the Commission's orders, rules, and regulations and the terms of their operating authorities:		
Formal complaints filed, including subnumbers	10	13
Investigations instituted	35	325
Reopened	4	1
Hearings	47	54
Under submission at end of period	9	9
Disposed of, including subnumbers and reopened proceedings:		
Dismissed or discontinued	7	11
By effective recommended order	50	14
By report of the Commission or a division of the Commission	11	5
Pending at end of period	28	337
Petitions handled	7	8

SECTION OF INSURANCE

Our rules and regulations under sections 211 (c), 215, and 403 (c) and (d) of the act, governing the filing and approval of surety bonds, insurance, qualifications as self-insurers, and other securities and agreements by transportation brokers, motor carriers, and freight forwarders, as security for the protection of the public, were unchanged during the past year. During the time the Section of Insurance received, examined for approval, and filed 56,501 certificates of insurance, 1,345 surety bonds, 8,888 notices of cancelation of policies of insurance and surety bonds, and 1,285 rescinders of notices of cancellation, or notices of reinstatement of previously canceled policies of insurance or surety bonds. In addition, the section received, examined, and prepared reports and recommendations for us in connection with 2 applications for authority to qualify as self-insurers, and received and analyzed 191 financial statements from motor carriers previously found qualified to self-insure, or from corporate sureties, other than those regularly engaged in the surety business and subject to approval by the United States Treasury Department under the so-called "Corporate Surety Act."

This section has the duty of keeping us currently informed as to any apparent inadequacy in the financial resources or general stability of the insurance companies which offer their certificates of insurance for filing with us in behalf of motor carriers and freight forwarders. This involves a constant observation of financial condition and experience published by insurance reporting agencies and other publications, as well as the examination of financial statements requested and received

from insurance companies. Since our last report, financial statements were received from 130 of the 435 insurance companies now filing certificates of insurance under sections 215 and 403 (c) and (d), and each was carefully examined and analyzed.

At present certificates of insurance, surety bonds, or qualifications as self-insurers, covering liability for the payment of final judgments for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the negligent operation, maintenance, or use of motor vehicles in transportation service subject to part II of the act, are on file for approximately 22,400 motor carriers of passengers or property. In addition, some 17,700 motor common carriers of property have such security on file covering their legal liability to compensate shippers and consignees for loss of or damage to cargo. Some 152 transportation brokers have surety bonds on file.

With respect to freight forwarders, 98 have effective insurance or surety bonds on file covering their legal liability to compensate shippers and consignees for loss of or damage to cargo, while 94 which hold themselves out to public to perform transfer, collection, or delivery services in terminal areas have provided security covering their liability for the negligent operation, maintenance, or use of motor vehicles in the performance of such services.

SECTION OF LAW AND ENFORCEMENT

The status of complaints and litigation during the year is as follows:

Complaints referred by field force

On hand Nov. 1, 1945	409
Received since Nov. 1, 1945 to Oct. 31, 1946	484
	<hr/>
Total requiring attention	893
	<hr/>
Closed (investigations concluded and reviewed)	413
Pending (investigation by field staff instituted or pending)	480
	<hr/>
	893
	<hr/>
Classification of violations (including complaints charging more than one violation):	
Operating without authority	266
Nonobservance of rates and charges on file	93
Unification without authority	30
Nonobservance of safety regulations	91
Insurance requirements	72
Accounting requirements	11
Miscellaneous	20
	<hr/>
Total	583

Cases involving litigation	Civil	Criminal	Total
Awaiting institution Nov. 1, 1945.....	12	45	57
Pending in court Nov. 1, 1945.....	12	54	66
Total cases then on hand.....	24	99	123
Cases authorized during year Nov. 1, 1945, to Oct. 31, 1946.....	15	182	197
Total cases requiring attention during year.....	39	281	320
Cases concluded during year Nov. 1, 1945, to Oct. 31, 1946.....	27	162	189
Cases abandoned during year Nov. 1, 1945, to Oct. 31, 1946.....	4	5	9
Total cases disposed of during year.....	31	167	198
Awaiting institution Oct. 31, 1946.....	3	52	55
Pending in court.....	5	62	67
Total cases on hand Oct. 31, 1946.....	8	114	122

The foregoing figures relate to work done by the enforcement branch of this section. Of the 189 court cases mentioned as concluded, 148 involved statutory violations of a criminal nature and resulted in the imposition of penalties totaling \$94,904. An acquittal resulted in 2 cases, and the Department of Justice moved the dismissal of 12 cases for various reasons.

Appropriate decrees were entered against defendants in 20 of the 27 civil cases concluded, decrees for defendants were rendered in 3 cases, and the other 4 were dismissed on motion of the Government.

There is a sharp decrease in the number of complaints shown in the table above as having been received during the year (484 as compared with 604 reported for 1945). This was brought about by a change in the method of handling complaints referred to the section by the field staff. Previously all complaints were submitted to the section for indexing. Under the present practice, only relatively important complaints are submitted and only such of these as justify investigation are indexed. This has made for more efficient and prompt investigation.

Enforcement work increased sharply during the year owing to the resumption of many unlawful activities which for various reasons had been discontinued during the war. Particularly noticeable was the revival of activities by unauthorized travel bureaus and the unauthorized hauling of coal into the New York-New Jersey area.

An important phase of the work of the law branch of the section is to prepare opinions on questions arising under part II of the act and conduct correspondence on legal matters. The law branch also has done considerable work in the drafting of modifications of various regulations, particularly those pertaining to the transportation of explosives and other dangerous articles. These duties included the preparation of necessary reports and orders pertaining to such regu-

lations. The law branch also participates, through a joint committee organized for the purpose, in the coordination of our administrative functions with those of the Wage and Hour Division, Department of Labor, so far as they deal with the hours of service provisions of the Fair Labor Standards Act and part 5 of our safety regulations.

The section has appeared as an intervener in a number of proceedings before us. These are cases in which counsel, other than the parties of record, were needed in order to produce evidence, cross examine witnesses, and otherwise to develop fully the facts of the particular cases in the public interest. The section also conducted special investigations assigned to it, such as the one dealing with practices of motor-carrier rate bureaus and their compliance with the rules promulgated under Certificate 44 of the Civilian Production Administration.

SECTION OF SAFETY

The following general accident reports were published: Motor Carrier Accidents, 1944 (October 1946), Analysis of Mechanical Defect Accidents of Motor Carriers (August 1946), and bulletin No. 1 entitled "Mechanical Defect Accidents and Fire Accidents—1944," dated March 4, 1946.

Realizing that the more we know about accidents the more we can do to prevent them, we have sought by every available administrative means to obtain accurate and complete reports of accidents from motor carriers. Instructions to the field force have been revised, clarifying and better defining the types of reportable accidents. By careful analysis of field reports on terminal and equipment inspections, and individual carriers' accident and excess hours reports, and by a continuing comparison of these reports, we have been able to improve the reports. In addition these analyses have located recurring violations on particular runs or by particular drivers, successions of related accidents, and other facts which when called to the attention of the carriers have assisted them in taking proper corrective measures.

An analysis of hours of service violations reported by carriers for the years from 1943 through the first half of 1946 has been made. The study revealed a considerable increase in the number of carriers reporting, the number of drivers involved in violations, and the total number of daily and weekly violations. Study is also being made of the relationship which excessive hours on duty, reported by particular carriers, bears to the number and severity of accidents reported by the same carriers. We are exerting every effort to bring about stricter compliance with our hours-of-service regulations. In many instances administrative procedure has been ineffective, and we have had to resort to legal action.

Much attention is devoted to analysis of those accidents caused by the driver being asleep, as well as those where driver fatigue appears to be an element. The number of "driver asleep" accidents reported is increasing (220 in 1945 as compared with 203 in 1944). Of particular concern is the large number of bus accidents wherein "asleep" and fatigue have been determined definitely to be the exclusive cause. Such accidents would be less frequent if there were strict observance of our hours-of-service regulations, although the failure of drivers to obtain sufficient rest when off duty is undoubtedly a factor.

General information concerning measures for the correction of defects likely to cause fire or other accidents was published in Bulletin No. 1 mentioned above. In addition, we are inspecting equipment, with particular attention to that of carriers having an unusual frequency of such accidents. During the first 8 months of 1946, by inspection of 6,591 motor vehicles and combinations of vehicles, 20,584 defects or deficiencies were discovered in steering mechanism, brakes, lighting devices, and other equipment necessary for the safety of operation. These were called to the attention of the motor carriers owning the vehicles for corrective action.

We are continuing a close watch of carriers transporting explosives or other dangerous articles. Those which are newly authorized to transport these commodities are visited by our field men who advise as to the applicable regulations and inspect the carrier's facilities for any unusual or hazardous conditions.

In 1945, 81 cases containing 702 counts of violations of the Motor Carrier Safety Regulations, Revised, were prosecuted by United States attorneys and for the first 8 months of 1946 there have been 27 such cases containing 227 counts, principally for failure to have on file physician's certificates of physical fitness for drivers, and for permitting or requiring drivers to remain on duty for excessive hours. A few of these cases involved failure to report accidents and failure to install on motor vehicles proper emergency equipment. As in past years, prosecution of drivers has been principally for falsification or failure to maintain a daily log.

A hearing has been held in Ex Parte No. MC-4, wherein a motor carrier seeks modification of our regulations prohibiting the use of dual saddle-mounts in drive-away operations. Division 5, on its own motion, enlarged the scope of the hearing to embrace all methods of drive-away, with a view to revision of our regulations to reduce the hazards in such transportation. The examiner's recommended report and order in this matter was issued on September 27, 1946.

By order of division 3 dated December 20, 1945, in Ex Parte No. MC-13 and No. 3666, the applicability of regulations applying to the

transportation of explosives and other dangerous articles in intrastate commerce was extended to December 31, 1946.

By order of division 5 dated January 3, 1946, in Ex Parte No. MC-4 that portion of the order of December 30, 1944, pertaining to first-aid kits was made permanently effective.

FIELD ORGANIZATION

During the year one subordinate office was closed and one new subordinate office was opened. Our field organization now has a total of 16 district offices and 62 subordinate offices. There have been a number of changes in our field staff because of returning servicemen and the necessary adjustments resulting therefrom.

Numerous strikes and continued shortages of equipment, experienced manpower, and other facilities tended to reduce the amount of available motor-carrier transportation. This brought about many embargoes, and demands upon our field offices to assist in procuring facilities for movement of merchandise to meet postwar requirements.

The foregoing reports of the various sections of the Bureau reflect in part the volume of regular work of the field staff, particularly with respect to applications for operating authority, transfers, accounting, enforcement, insurance delinquencies, and safety. A great many of these matters require original or subsequent handling by the field staff.

During the period of the war it was necessary to curtail some of the field activities, particularly with respect to safety and enforcement, because of the loss of men called into the armed services and of the demands for assistance by other Government agencies. In the past year our safety and enforcement work in the field has been increased to the extent permissible by our limited staff.

During the year, the field staff made 2,730 investigations at carriers' terminals and checked 15,082 vehicles for our safety requirements, investigated 346 accidents, investigated and reported on 1,931 applications filed by motor carriers for permanent operating authority and 4,633 applications for temporary operating authority, investigated 10,565 complaints, 5,042 insurance delinquencies, and made 1,202 special investigations and surveys.

BUREAU OF SAFETY

A more detailed report of this Bureau is published as a separate document.

Except as otherwise specified, the report here made is for the year ended June 30, 1946.

SAFETY APPLIANCES

The following table shows the result of inspection of safety appliances, together with corresponding data for the preceding year:

	1946	1945
Freight cars inspected.....	1, 203, 408	1, 414, 674
Percent defective.....	3. 20	3. 18
Passenger-train cars inspected.....	27, 840	30, 198
Percent defective.....	4. 00	3. 15
Locomotives inspected.....	14, 580	17, 314
Percent defective.....	5. 40	3. 88
Number of defects per 1,000 units inspected.....	38. 03	37. 51

During the year, 157 cases of violation of the safety appliance laws, comprising 377 counts, were transmitted to United States attorneys for prosecution. At the beginning of the year, cases comprising 396 counts were pending in the district courts. Judgment was confessed in cases comprising 577 counts, 3 counts were dismissed and 7 tried, resulting in judgment for the Government on 3 counts, and 4 counts are awaiting decision. The 4 counts pending decision last year were decided in favor of the Government. On June 30, 1946, cases containing 186 counts were pending in the various district courts.

The matter of the installation of reliable and efficient air brakes on railroad cars is being given continuing attention. By order of May 30, 1945, we required the installation of improved power brakes on all cars used in freight service to comply with our specifications. The order also required carriers and car owners to furnish certain information on or before August 28, 1945, to be used in prescribing the time within which the installation of such brakes must be completed. Upon study of the information furnished, the probable capacity of the brake manufacturers to produce the necessary equipment, and a further hearing, our order of September 21, 1945, was issued, requiring the installation of such power brakes and appliances on all cars used in freight service, except those equipped with passenger-car brakes, on or before January 1, 1949.

There has been continued cooperation with the Association of American Railroads concerning tests of geared hand brakes. Twelve types of vertical-wheel geared brakes and 4 types of horizontal-wheel geared brakes have been certified by that association as meeting its specifications. Final action on others is pending.

HOURS OF SERVICE

The following table contains statistics for the year and corresponding data for the preceding year:

	1946	1945
Railroads filing hours of service reports	701	709
Railroads reporting instances of excess service	212	224
Instances of excess service reported	70,355	146,004

Thirty-eight cases of violation of the hours of service law, comprising 270 counts, were transmitted to United States attorneys for prosecution. At the beginning of the year, cases comprising 148 counts were pending in the district courts. Judgment was confessed in cases comprising 349 counts, 1 count was dismissed, and 2 tried, resulting in judgment for the defendant. The case of 30 counts pending on appeal last year was decided in favor of the defendant. On June 30, 1946, cases containing 66 counts were pending in the district courts.

SIGNAL SYSTEMS, INTERLOCKING, AND AUTOMATIC TRAIN-STOP AND TRAIN-CONTROL DEVICES

Block-signal systems, interlocking, and automatic train-stop, train-control, and cab-signal devices were in use on January 1, 1946, as follows:

	Plants	Miles of road	Miles of track	Locomotives
Block-signal systems:				
Automatic		69,967.7	101,519.3	
Nonautomatic		39,435.9	40,878.5	
Total		109,403.6	142,397.8	
Interlocking:				
Number of plants	4,407			
Automatic train-stop, train-control, and cab-signal devices:				
Intermittent ¹		6,343.5	11,775.6	5,818
Continuous		4,306.4	8,944.5	5,032
Total	4,407	10,649.9	20,720.1	10,850

¹ Listed under "intermittent" are 488 locomotives having dual intermittent-continuous equipment.

Detailed information concerning these installations is contained in the annual signal bulletin, compiled separately.

During the year, 882 applications for approval of modifications of block-signal systems and interlockings were filed by carriers, and at

the beginning of the year action was pending on 129 applications previously filed; of these, 878 applications were acted upon, 20 withdrawn, and action was pending on 113 at the close of the year.

On July 1, 1945, 3 applications were pending for approval of modifications of the rules, standards, and instructions prescribed by our order of April 13, 1939, or for extension of time within which certain sections were to become effective. During the year, 31 additional applications were filed and 23 acted upon. At the close of the year 11 such applications were pending.

In 86 cases, further extensions of time were granted carriers in connection with applications covering projects which could not be completed within the original time limit allowed by our orders.

Action also has been taken on one application for approval of modifications of automatic cab indicators.

During the year a public hearing was held on one application, and action was taken on this application as well as one on which a hearing had been held in the previous fiscal year.

Pursuant to section 25 (b) of the Interstate Commerce Act, in view of conditions disclosed in the investigation of accidents, we have issued orders calling upon certain carriers to show cause why they should not be required to install block-signal systems or other safety devices on parts of their lines.

Monthly signal-failure reports filed by the carriers during the fiscal year are summarized as follows:

False restrictive failures.....	41, 182
False proceed failures.....	201
Potential false proceed conditions.....	40

During the year, inspections were made as follows:

Block-signal systems.....	705
Interlockings.....	1, 478
Automatic train-control and cab-signal devices.....	386
Centralized traffic-control systems.....	179
Other similar appliances, methods, or systems.....	52
Total	2, 800

These inspections have resulted in bringing to the attention of railroad managements, for necessary corrective action, a large number of unsatisfactory maintenance conditions which have been found to exist.

One case of two counts for violation of section 25 of the Interstate Commerce Act was transmitted to a United States attorney for prosecution. The defendant confessed judgment.

INVESTIGATION OF ACCIDENTS

The Bureau investigated 93 train accidents, of which 73 were collisions and 20 were derailments. The collisions resulted in the death of 170 and the injury of 2,754 persons. The derailments resulted in the death of 35 and the injury of 812 persons. The total was 205 killed and 3,566 injured.

The following information relates to eight of the more serious accidents investigated:

Kind of accident	Trains involved	Number of persons		Cause
		Killed	Injured	
Derailment.....	Passenger train.....	2	69	Train entering switch at high speed.
Rear-end collision.....	Passenger train and passenger train	34	309	Failure to provide protection for preceding train.
Head-end collision.....	do.....	1	112	Switch opened immediately in front of approaching train.
Side collision.....	do.....	6	150	Failure to obey meet order.
Derailment.....	Passenger train.....	2	118	Broken rail.
Head-end collision.....	Passenger train and passenger train.	3	478	Failure to obey signal indication.
Rear-end collision.....	do.....	45	69	Do.
Derailment.....	Passenger train.....	2	27	Excessive speed on curve.

GRADE CROSSINGS—RAILWAY WITH HIGHWAY

During the calendar year 1945, there were 4,100 accidents at highway grade crossings, which resulted in the death of 1,903 persons and the injury of 4,446 persons. Automobiles were involved in 3,514 of these accidents, in which 1,577 persons were killed and 4,126 injured. There were 57 derailments of trains as a result of collisions between trains and automobiles, which caused the death of 45 persons and the injury of 208 persons. Of the total casualties resulting from derailments and other train accidents at highway grade crossings, 13 of the persons killed and 214 of those injured were railroad passengers, employees, and persons carried under contract. Information concerning accidents of this character, together with comparable

statistics for the preceding two years, and the number of grade crossings, is shown in the following tables.

Accidents at highway grade crossings, years ended Dec. 31, 1945, 1944, and 1943

	1945			1944			1943		
	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured
Accidents at highway grade crossings.....	4, 100	1, 903	4, 446	3, 811	1, 840	4, 216	3, 781	1, 732	4, 217
Accidents at highway grade crossings involving automobiles.....	3, 514	1, 577	4, 126	3, 284	1, 512	3, 983	3, 181	1, 378	3, 944
Derailments of trains as a result of collisions between trains and automobiles.....	57	45	208	53	22	60	55	37	120
Miscellaneous train accidents as a result of collisions between trains and automobiles.....	206	104	122	208	97	118	207	92	148
Automobiles registered.....	30,638,429			30,086,189			30,499,608		
Railroad casualties:									
Passengers.....		3	143		0	11		0	19
Employees on duty.....		21	167		19	118		12	100
Persons carried under contract.....		0	7		0	1		0	6
Total.....		24	317		19	130		12	125

Crossings, railway with highway

Years ended Dec. 31—	Number at end of year	Number actually added and eliminated during the year		Net decrease	Years ended Dec. 31—	Number at end of year	Number actually added and eliminated during the year		Net decrease
		Added	Eliminated				Added	Eliminated	
1945.....	226, 153	316	630	314	1940.....	230, 285	730	1, 507	777
1944.....	226, 357	377	837	460	1939.....	231, 104	868	1, 554	686
1943.....	226, 938	825	1, 339	514	1938.....	231, 400	641	1, 805	1, 164
1942.....	227, 496	516	2, 694	2, 178	1937.....	232, 322	895	1, 843	948
1941.....	229, 722	563	1, 502	939	1936.....	232, 902	491	2, 134	1, 643

EXAMINATION OF SAFETY DEVICES

Plans of 7 devices designed to promote safety of railway operation were examined by our engineers, and reports thereon transmitted to the proprietors or their agents.

MEDALS OF HONOR

During the year ended June 30, 1946, two applications for award of medals of honor were filed, and award made to the following:

Curtis E. Houston, brakeman employed by the Chicago & Illinois Midland Railway for rescuing a young girl from the path of a switching movement at Springfield, Ill., on March 21, 1945.

The other application for a medal is still under investigation.

Since the passage of this act 92 applications have been filed, of which 57 have been approved, 34 denied, and 1 is pending.

BUREAU OF SERVICE

The work of this Bureau has continued to be heavy during the current year because of the urgent need for economical use of railroad freight equipment described in another section of this report. To meet this need our field force of service agents was increased to 70. The Bureau has closely cooperated with the Office of Defense Transportation, performing all field work for the two agencies, since the latter has discontinued its entire field force except 3 employees engaged in special work.

Our field force made investigations of conditions and records at 9,231 railroad stations and yards, interviewing 7,938 officers of industries and 28,172 railroad officials. Reports on car detention numbering 8,375 were submitted. From October 1, 1945, to September 30, 1946, inclusive, 837 embargoes were placed by the Association of American Railroads at our request, and 512 were placed by the individual railroads to prevent delays. Our agents have made concentrated efforts to prevent circuitous routing, misuse of railroad equipment, backhauling and crosshauling of cars, and congestion at terminals and ports. Special efforts were made to prevent improper loading of cars, to expedite car repairs, and to secure the prompt return of cars from Mexico, Canada, and Cuba.

Measures have been taken to avoid unnecessary weighing of cars and delays incident to diversion and reconsignment. From time to time traffic has been diverted or rerouted on account of terminal congestion and other transportation disabilities.

Some of our agents frequently are shifted from their regular duties to act as permit agents and assist in the administration and enforcement of service orders. During the current year, 10 agents were so assigned in connection with service orders pertaining to grain, and 3 were in charge of distribution of refrigerator cars in the States of Washington, California, and Texas. The work in connection with grain currently requires the supervision of 4 agents, and it is expected that additional agents will be required for distribution of refrigerator cars.

Our agents at Cleveland, Ohio, New York, N. Y., and Norfolk, Va., have rendered valuable assistance to prevent car delay in the movement of coal to the Great Lakes and ocean ports for transshipment by vessel.

The Bureau has participated in certain formal proceedings, and has investigated an increasing number of informal complaints relating to demurrage and car service.

Explosives.—Postwar transportation of commercial explosives is increasing and probably will exceed the prewar movement. It is, of course, far less than the wartime volume. In 1945 a total of 317,742 cars, loaded with 13,375,162 tons of explosives, averaging more than 84,000 pounds per car, were transported, compared with 17,363 cars and 331,621 tons, averaging 13,600 pounds per car in 1940.

To conserve equipment, our regulations were amended to permit transportation of certain types of munitions in stock cars and open-top cars, as well as in substandard types of box cars. Fireworks were responsible for six accidents and a reported property loss of \$10,794. One express employee was killed by the accidental discharge of a loaded firearm in a package which was being placed in a car.

Rail carriers reported no accidents due to the transportation of explosives in 1945. During that period there were, however, 48 derailments of cars containing explosives, but no fires or explosions resulted and the contents of only 8 cars were damaged.

There were 1,036 accidents in rail transportation of dangerous articles, other than explosives, causing a property loss of \$600,090. No deaths resulted but 20 persons were injured, 7 of which injuries were due to incomplete draining of acid carboys by consignees. Corrosive liquids splashing from a drum from which the cover was detached injured 3; 6 injuries were due to a loose dome cover, open vents, or leaks in tank cars; rupture of an acid drum caused 2 injuries, and there was one each from battery acid and a leaky chlorine gas cylinder.

Gasoline was responsible for the greatest number of accidents, 223, in which the property damage amounted to \$160,497, but naphtha, involved in 18 accidents, was responsible for a property loss of \$164,974. Accidents caused by electric storage batteries numbered 189, but the property damage amounted to only \$2,142. A total of 162 fires in rail and express transportation was reported.

There were tested in the laboratories of the Bureau of Explosives 694 samples, which included 51 new chemicals or combinations, and 6 new explosives. Close contact was maintained with the Bureau of Explosives, which cooperated to the fullest extent in the many problems of mutual interest.

The field force of the Bureau of Service, and two explosives agents, were assigned to make observations for the purpose of ascertaining the extent to which regulations were being followed by carriers and industries. They submitted 957 reports during the year, which indicate that there is need for continued policing of the regulations. Only

a small number of violations were of sufficient substance to warrant a recommendation of prosecution, but continued surveillance over these matters has had desirable effects.

BUREAU OF TRAFFIC

Economic and transportation conditions during the past year have continued to affect the activities of this Bureau. Also the pendency of the general investigation into the matter of emergency general rate increases sought by rail, water, and express carriers has tended to cause the withholding by those carriers and competing agencies of transportation, awaiting the determination of that investigation, of numerous rate changes that normally might otherwise have been instituted by them.

Data covering particular activities of subdivisions of this Bureau are shown below:

SECTION OF TARIFFS

There were received for filing 129,821 tariff publications containing changes in freight, express, pipe-line and freight-forwarder rates, classification ratings or contract carrier minimum rate schedules and in passenger fares. This figure comprises tariff publications as follows:

Freight:	
Rail, motor or water common carrier.....	108, 750
Contract schedules, motor or water.....	2, 064
Passenger.....	14, 452
Express.....	711
Pipe line.....	609
Freight forwarder.....	3, 235
	<hr/>
	129. 821

Of these tariff publications, 1,220 were rejected for failure to give the notice required by the statute or to conform to prescribed regulations. Tariff publications were criticized in 11,876 instances as not being in conformity with the act or our tariff rules. Powers of attorney and certificates of concurrence filed aggregated 25,985. Applications received seeking special permission to establish rates or fares on less than statutory notice or waiver of certain of our tariff publishing rules numbered 9,597. Specific orders entered granting, amending, or revoking special permissions numbered 9,945. There were received and filed 768 copies of traffic contracts between common carriers, and 3,044 copies of contracts between contract motor carriers and shippers governing the charges of such carriers for transportation for such shippers. The issuance of certificates and permits to motor

carriers and the transfer of such operating rights are conditioned on compliance with our tariff rules. Compliance with the tariff rules was checked in 2,878 certificate and permit matters and in 3,710 transfer matters. Rate matters involved in 7,186 applications for temporary authority to establish new and extended motor operations, including 4,201 extensions under the Second War Powers Act, were acted on during the year. For use in transportation studies, 98,218 freight waybills were analyzed and individually checked to determine the rates and distances involved.

SUSPENSIONS

Rate adjustments covering changes in rail, motor, water, freight-forwarder and pipe-line tariff schedules were protested and suspension asked in 567 instances. Of these protested adjustments, 283 represented increases, 227 represented reductions, 44 represented both increases and reductions, and 13 neither increases nor reductions.

The following action was taken on the requests for suspension:

Suspended (including supplemental orders).....	188
Refused to suspend.....	273
Schedules rejected, requests for suspension withdrawn, or protested schedules withdrawn.....	106
Total.....	567

In addition to the above 188 suspension orders, 141 orders were entered vacating or discontinuing suspension proceedings.

Of the suspended adjustments, 79 were disposed of through informal proceedings, together with 27 adjustments suspended during the previous year.

A total of 2,536 tariff publications were involved in the above-described adjustments, of which 1,548 represented increases, 600 represented reductions, 375 represented both increases and reductions, and 13 represented no change. The number of parties requesting suspension was 1,657, and the parties opposing suspension numbered 94.

Rail carriers protested 41 motor adjustments and motor carriers protested 17 rail adjustments, while water carriers protested 9 rail adjustments. As to freight-forwarder adjustments, 2 were protested by competing freight forwarders and 2 by motor carriers. All of these adjustments represented reductions in rates.

Among the protested increased-rate adjustments, 77 were protested by the Department of Agriculture, Office of Price Administration, and other Government agencies and 20 by State commissions.

THE FOURTH SECTION

The number of applications was 671. The number of orders entered in response to applications was 594, of which 11 were denial orders, 419 were orders granting continuing relief, and 164 were orders authorizing temporary relief. Thirteen formal reports were issued.

Applications withdrawn, wholly or in part, after correspondence with carriers, numbered 21; and 44 applications or portions thereof were heard.

The number of petitions for modification of orders was 240, of which 193 were granted, 23 were denied, 4 were withdrawn, and 20 are pending.

EXPRESS

Of the tariff publications received for filing, 711 represent changes in express rates and classification ratings. Of the applications received seeking special permission to establish rates on less than statutory notice or waiver of certain of our tariff-publishing rules, 33 related to express rates.

RELEASED RATES

There were filed 29 applications for authority, under sections 20 (11), 219, and 413 of the act, to establish rates dependent upon declared or agreed values, and one such application was pending at the beginning of the year. Of these, 18 were granted, 8 were withdrawn, one was denied, and 3 are pending.

BUREAU OF TRANSPORT ECONOMICS AND STATISTICS

During the past fiscal year this Bureau has as a part of its general research work issued reports on the following special studies:

1. *Per diem costs of car ownership and per diem charges for freight cars and their calculation.*—This study, undertaken after the increase in per diem charges from \$1 to \$1.15 per day, effective February 1, 1945, presents an analysis of the results of calculating per diem costs of car ownership and per diem charges therefor according to various theories and methods.

2. *Postwar earnings of class I railroads.*—This study sets up three possible levels of national income for 1946, 1947, and 1948 and indicates the probable level of earnings of class I railways associated with each of the national income levels. It also discusses the probable effect on national income of various economic developments which appear likely to be important factors in the years named.

3. *The transportation of fresh apples.*—This study is the first analysis of the rail-rate structure, flow of traffic, and costs based on waybill data collected by the Board of Investigation and Research, supplemented by additional data.

4. *Weight density and value as factors in freight classification.*—This is an analysis of the relationships between classification ratings of commodities and their weights per cubic foot and values per pound, based on material from several exhibits in No. 28300, Class Rate Investigation, 1939.

5. *Motor-carrier facilities—War use and postwar needs.*—This is an analysis of the utilization and condition of motor-carrier facilities during the war and of possible expenditures for new facilities in early postwar years.

6. *The meaning and significance of the out-of-pocket, constant, and joint costs in motor-carrier operation.*—The purpose of this statement is to provide such minimum description of the nature and characteristics of motor-carrier costs as will afford an understanding not only of the principles underlying the segregation and treatment of the out-of-pocket (long-run variable) costs, the joint costs and the constant costs, but also of the economic significance which is attached to each of these elements of cost from the standpoint of rate making.

7. *Regional shifts in the postwar traffic of class I railways.*—This study is concerned primarily with the effect of war facilities and war-time developments on the future traffic in the several freight-rate territories. Although the absolute figures of estimated tons originated are presented, the discussion is primarily concerned with the postwar percentage distribution of these tons among the principal rate territories as compared with the corresponding distribution before the war.

The Bureau regularly prepares a series of monthly, quarterly, and annual publications based on reports filed with us by the various carriers subject to the provisions of the Interstate Commerce Act. A list of these publications appears in our Annual Report on the Statistics of Railways in the United States. Condensed statistical summaries of data relating to the various classes of carriers are given in appendix C of this report.

The total number of reports received from the carriers for tabulation during the 12-month period ended June 30, 1946, was 49,931, of which 4,181 were annual reports, as compared respectively with 48,710 and 3,992 reports received during the preceding fiscal year. The work of the Bureau, as indicated by the number of reports received and tabulated, has continued to increase in recent years because of the enlargement of our jurisdiction. The Bureau still has a con-

siderable backlog of work which resulted from a shortage of personnel during the war period and immediately thereafter. This situation has improved somewhat in recent months.

Another phase of the Bureau's research work is the study of costs of transportation. During the past fiscal year, the cost section of the Bureau participated in a large number of rate cases requiring the analysis of costs. It has also taken an active part in the preparation and presentation of cost, traffic, and rate-structure data introduced in a wide range of proceedings, including several which have been instituted on our own motion. Much progress has been made in the development of cost-finding procedures. The work of coordinating cost, traffic and rate structure analysis, utilizing waybills studies, has been progressed to the end of making available in present and future rate proceedings, greatly expanded information as to traffic flow, rate structure, and transportation costs by commodities, type of rate, size of shipments, mileage blocks, and the like.

By order of September 6, 1946, effective November 1, 1946, class I line-haul steam railways are required to file with the Bureau authentic copies of audited waybills for all carload shipments terminated for which the waybill serial numbers are "1" or end with "01." By use of this sampling method, copies of the waybills obtained will furnish information necessary for analysis of the rail-rate structure and costs of transportation. Additional data, such as flow of traffic by commodities intraterritorially and interterritorially, can be developed. In the past year several detailed studies of motor-carrier waybills have been completed for use in analysis of the rate structure and in refining the work of cost analysis. Additional work in this field is in progress. Considerable work has also been done on the analysis of rail waybills and abstracts collected by the Board of Investigation and Research which are now in the custody of this Commission.

The commodity classifications used by railroads in making reports of freight commodity statistics have been revised and expanded and the railroad reports of such data have been changed from a monthly to a quarterly basis by our order of September 24, 1946, effective January 1, 1947. The freight commodity classification now in use provides for the division of freight traffic into 157 classes of commodities as compared with 262 in the revised list. The additional information will provide a better basis for the analysis of the carriers' freight traffic and revenue by commodities.

BUREAU OF VALUATION

During the year, this Bureau has been engaged principally in bringing to later dates inventories and other underlying data upon railroads for which valuations have been previously made, as required by sec-

tion 19a (f) of the Interstate Commerce Act; auditing reports covering extensions, improvements, retirements, and other changes; collection of data reflecting changes in land values; supplying valuation data in connection with our current regulatory work, and supplying valuation data to carriers, other Government agencies, States, counties, cities, and to the general public.

The Bureau furnished statements of original cost to 42 carriers for use in setting up new investment accounts after reorganizations, consolidations, and mergers of railroad companies, in accordance with our requirements. Past accrued depreciation percentages were furnished to 92 railroads. Initial depreciation rates were supplied to 229 carriers for use in complying with our depreciation orders.

During the year, elements of value were submitted for two reorganization cases; testimony was presented in a case involving the proper accounting for post driving and pressure grouting; valuation data were furnished to the Bureau of Finance, Bureau of Accounts, and the Bureau of Transport Economics and Statistics for use in accounting and depreciation, abandonment, acquisition, and cost studies.

Special reports were prepared for the Office of Defense Transportation on the elements of value, materials and supplies, and maintenance of the Toledo, Peoria & Western Railroad. The Bureau has in progress for that office an appraisal of lands and improvements, and an inventory of materials and supplies of the Great Lakes Towing Company.

A depreciation study concerning certain items of depreciable property, including equipment, was completed during the year, after several years of exhaustive investigation. The study was made primarily to meet the increased demand for speeding up the work of the Bureau in the determination of the amount of depreciation existing on railroad properties, and to expedite the development of depreciation rates and past accrued depreciation reserves for accounting purposes. This study has proved to be of considerable value to State authorities and the general public.

The Railroad Construction Indices prepared annually by the Bureau have been revised to include the year 1945. This study is widely used by the industry and the public.

While there has been some increase in the personnel of this Bureau, it is still understaffed. Continued suspension of work on bringing inventories and original cost of the pipe-line companies to later dates was necessary owing to the lack of funds.

BUREAU OF WATER CARRIERS AND FREIGHT FORWARDERS

The functions of this Bureau at the time of our last annual report are outlined at page 114 thereof. With the substantial completion of the

Bureau's initial task—the processing of applications for authority to continue operations or for exemption—our work on applications stands at what might be termed a normal docket; that is, new applications constantly are being filed and normally a number will at all times be pending. The period since the end of hostilities has brought an increase in the number of applications for authority to institute new operations. Because of the change in conditions since our last report, new questions and problems have arisen affecting both water carriers and freight forwarders, as will be pointed out below.

Field offices of the Bureau are maintained in Chicago, New Orleans, and San Francisco, and a special agent is employed in Washington, for the purpose of providing direct contacts with water carriers, freight forwarders, and shippers, and to make field investigations in connection with applications for operating authority and matters relating to compliance with the requirements of part III and part IV of the act. Three hundred and forty-three reports of investigation in connection with applications or relating to compliance were submitted by them to the Bureau during the year for further handling.

Since part III of the act became effective, 1,186 applications have been filed for authority to continue, extend, or institute operations, of which 1,156 have been disposed of by grant, denial, or dismissal. These figures include applications for temporary or emergency authority, of which 40 were granted during the year, and 30 are now outstanding. Nineteen applications for authority to merge or transfer operating rights were acted upon during the year. There are now outstanding 285 common-carrier certificates and 69 contract-carrier permits.

The following is a summary of the status of the work on water-carrier applications since part III became effective, and separately for the past year:

Water-carrier applications

Applications filed to Oct. 31, 1946:

For authority to continue operations under "grandfather" clause----	775
For authority for new operations-----	116
For authority to continue (formerly exempted) operations by small craft-----	17
For exemption-----	419
For authority to extend operations-----	9
For temporary authority-----	269
Total-----	1,605

During period Nov. 1, 1945, to Oct. 31, 1946, inclusive:

Certificates issued:

Authorizing continuance under "grandfather" clause.....	39
Authorizing new operations.....	16
Authorizing small-craft operations.....	--

Permits issued:

Authorizing continuance under "grandfather" clause.....	10
Authorizing new operations.....	6

Orders issued:

Granting temporary authority.....	40
Extending temporary authority.....	42

Substitution applications:

Approved.....	19
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Applications dismissed or denied:

For exemption.....	7
For authority to continue operations under "grandfather" clause..	23
For authority for new operations.....	6
For authority for small-craft operations.....	--
For authority to extend operations.....	4
For temporary authority.....	8

	Formal hearing	No formal hearing	Total
Reports issued in connection with applications:			
On applications for exemption.....	4	2	6
On applications to continue operations under "grandfather" clause.....	8	6	14
On applications for new authority.....	12	10	22
On applications for small craft.....			
On reconsideration.....	19	11	30
Short-form certificates, permits, and orders issued:			
On applications to continue operations under "grandfather" clause.....		28	28
On new operation.....	1	9	10
On small craft.....			
On exemption.....	1		1
Show cause orders.....	1	2	3
Total number of reports issued.....	46	68	114
Applications pending:			
For authority to continue operations under "grandfather" clause..	10	2	12
For authority for new operations.....	20	15	35
For exemption.....		4	4
For authority to extend operations.....			
For temporary authority.....		2	2
Total.....	30	23	53

In our last annual report we referred to the investigation instituted by division 1, in Ex Parte No. 161, for the purpose of determining whether contract carriers by water should be required to file with us copies of their contracts with shippers for the transportation of property or for services incidental thereto. Relatively few parties filed statements or briefs respecting this matter, and upon investigation of those which were submitted, the division concluded that

there was as yet no need to require the filing of such contracts. Accordingly the proceeding has been discontinued.

In previous reports we have voiced our anticipation of new and heightened competition within and among the several forms of transportation and of many changes to be expected in the character and volume of traffic of water carriers. We referred to "new types of vessels * * * being given careful consideration." Considerable interest has been evidenced during the past year in the use of navy landing craft on inland and protected waterways. Seven applications have been filed with us for authority to perform service with vessels of this type. One has been granted, and operations have been instituted under that authority. Operations have also been authorized and are soon to be instituted with the use of articulated barge-type vessels, likewise to be used on inland waterways.

A major problem in the field of water transportation has been that of reestablishment of intercoastal and coastwise services, in which connection the matter of water-carrier and railroad competitive rates, discussed elsewhere, has been brought into prominence. The limited operations in these services, instituted by the War Shipping Administration beginning last November under temporary authority granted by us, and now being conducted by the Maritime Commission, also are described in an earlier chapter. Our investigations have disclosed that, in addition to difficulties facing intercoastal and coastwise carriers, many water carriers on inland waterways, such as the New York State Canal, have performed little or no transportation during the past year owing to increased costs and conditions which have affected the volume of traffic available to them. As was true following the First World War, it may be expected that restoration of domestic shipping to an extent approaching its prewar place in the transportation system will require a substantial period of time, and that it will present difficult and perplexing problems.

Eight applications were filed during the year to engage in freight-forwarder operations. Since part IV was passed in 1942, we have received a total of 181 applications for freight-forwarder permits. Of these, 165 have been disposed of and 16 are pending. Ninety-seven permits have been issued, and we have denied or dismissed 16 applications principally because the operations were exempt or the applicants were subsidiaries seeking authority which would duplicate that of the proprietary forwarder.

Operations of freight forwarders, as contrasted with those of water carriers, were not seriously disrupted during and since the war. In this connection, there has been an increase in the past year in the number of associations of shippers, organized for the consolidated

transportation of their shipments and claiming to be exempt under section 402 (c), which has increased the investigating work having to do with compliance with the requirements of part IV. The status of such operations as exempt or not exempt appears to be governed by the terms of section 402 (a), which define freight forwarders subject to part IV of the act, notwithstanding the exemption provisions of section 402 (c).

At the beginning of the period covered by this report, a number of freight forwarders subject to part IV of the act had not complied with our regulations governing insurance for the protection of the public, which became effective August 1, 1945. This was explained in our last annual report as probably due to misunderstanding of the rule. With the exception of two concerns, whose status as freight forwarders has only recently been determined, all freight forwarders now operating under permits are in compliance with the regulations.

Section 411 (c) makes it unlawful for a director, officer, employee, or agent of any common carrier subject to the Interstate Commerce Act or of any person controlling, controlled by, or under common control with such a common carrier, in his or their own personal pecuniary interest, to own, lease, control, or hold stock in any freight forwarder, directly or indirectly. It has proved to be impracticable to administer this section without seemingly illogical results, in view of the provision of section 411 (g) that "Nothing in this Act shall be construed to make it unlawful for any common carrier subject to part I, II, or III of this Act, or any person controlling such a common carrier, to have or to acquire control of a freight forwarder or freight forwarders * * *," and elsewhere in this report we are renewing our recommendation that section 411 (c) be so amended as to permit such ownership, lease, control, or holding when authorized by us upon a showing that neither public nor private interests will be adversely affected thereby.

LEGISLATIVE RECOMMENDATIONS

We submit the following recommendations for legislation:

1. We recommend that sections 1 (22), 5 (13), and 20a (1) be amended so as to make these and related paragraphs inapplicable to street, suburban, and interurban electric railways, except those which are operated as parts of general steam railroad systems of transportation or are engaged in the general transportation of freight and interchange standard steam railroad freight equipment with steam railroads for transportation in interstate or foreign commerce to or from points on their lines. We further recommend that sections

1 (22) and 5 (2) (a) be amended so as to make them inapplicable to acquisition or operation of spur, industrial, team, switching, or side tracks and of the excepted electric railways.

2. We recommend that section 3 (2) of the Interstate Commerce Act be amended to include the extension of credit for unpaid transportation charges of express companies.

3. We recommend that section 5 (2) (b) be amended by removing therefrom the requirement that "a public hearing shall be held in all cases where carriers by railroad are involved."

4. We recommend that sections 16 (5), 221 (a), and 315 (a) be amended so as to permit service of notices suspending tariffs on a carrier or agent which publishes a joint tariff in lieu of service on all the carriers parties thereto, and that the first-enumerated section be amended so that it shall not be mandatory upon us that such notices be served on agents of railroad companies in the city of Washington. We further recommend that sections 221 (a) and 315 (a) be amended so as to make it unnecessary to make service on motor carriers and water carriers by registered mail.

5. We recommend that section 20 (6) of the act, providing for access by this Commission to records relating to protective or car service, be amended so as to be applicable to records of "persons which directly or indirectly through rental agreements with shippers or otherwise furnish cars to or for use of any carrier by railroad or express company" subject to part I.

6. We recommend that the various provisions of the act, authorizing us to require reports from carriers and others and to inspect and copy accounts, books, records, et cetera (sections 20, 220, 313, and 412) be amended so as to be applicable to associations or organizations maintained by or in the interest of any group of carriers or freight forwarders subject to the act.

7. We recommend that section 411 (c), making it unlawful for a director, officer, employee, or agent of any common carrier subject to the Interstate Commerce Act or of any person controlling, controlled by, or under common control with such a common carrier, in his or their own personal pecuniary interest, to own, lease, control, or hold stock in, any freight forwarder, directly or indirectly, be amended so as to permit such ownership, lease, control, or holding upon authorization by order of this Commission, upon due showing that neither public nor private interests will be adversely affected thereby.

8. We recommend that section 411 be amended to provide for the regulation of consolidations and leasing of freight forwarders.

9. We recommend that section 222 be amended by adding a new paragraph which would provide a remedy by forfeiture for failure of

motor carriers, brokers, et cetera, to keep records in accordance with regulations prescribed under part II of the act or failure to file reports prescribed thereunder. A remedy by forfeiture is provided for violation of various provisions of part I of the act, section 20 (7) for example, and for various reasons a forfeiture suit would be preferable to a prosecution upon the filing of an information which now is necessary in cases of derelictions such as those before mentioned.

10. We recommend that the Federal statutes commonly known as the Transportation of Explosives Act (U. S. Code, title 18, sections 382-386) be completely rewritten in the light of important developments relating to this subject which have occurred in the 25 years since the last revision of these statutes.

11. We recommend that this Commission be given permanent emergency powers with respect to service by motor carriers and water carriers such as it now has with respect to car service by rail carriers. We now have such power temporarily over motor carriers under the Second War Powers Act, which will expire March 31, 1947, or earlier.

12. We recommend that the Interstate Commerce Act be amended by adding new provisions which would make common carriers by motor vehicle and by water and freight forwarders liable for the payment of damages to persons injured by them through violations of that act.

13. We recommend that the Congress amend the Standard Time Act so as fully to occupy the legislative field respecting standards of time to be observed throughout the Nation.

14. We recommend that the Interstate Commerce Act be amended so as to provide adequate regulation of two or more common carriers or freight forwarders, subject to the act, when they agree upon and act jointly through a bureau, conference, or association in establishing rates, fares, charges, et cetera, subject to the provisions of the act.

15. We recommend that section 25 be amended so as to authorize the Commission to require any carrier subject to that section to install and maintain telegraph, telephone, radio, inductive or other wayside or train communication systems intended to promote safety of railroad operation, and to establish and maintain rules, regulations, and practices with respect to operation of trains intended to promote safety of railroad operation.

16. We recommend that the Interstate Commerce Act be amended by adding after section 20a thereof, as originally provided by S. 1253 (79th Congress, 1st session) a new section (20b) permitting carriers by railroad as defined in section 20a, which are not in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act, and are not in need of financial reorganization of the character

provided for under section 77, to make adjustments of their indebtedness, without resort to judicial reorganization under section 77.

17. We recommend that section 20a of the Interstate Commerce Act be amended to make it applicable to sleeping-car companies.

GEORGE M. BARNARD, *Chairman*.

CLYDE B. AITCHISON.

WILLIAM E. LEE.

CHARLES D. MAHAFFIE.

CARROLL MILLER.

WALTER M. W. SPLAWN.

JOHN L. ROGERS.

J. HADEN ALLDREDGE.

WILLIAM J. PATTERSON.

J. MONROE JOHNSON.

APPENDIX A

SUMMARY OF INDICTMENTS RETURNED AND INFORMATIONS AND COMPLAINTS FILED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1945, AND OCTOBER 31, 1946, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE ACT, PART I, THE ELKINS ACT, AND THE TRANSPORTATION OF EXPLOSIVES ACT

United States v. Allied Mills, Inc., district of Nebraska. July 19, 1946, information charging acceptance of concessions on shipments of grain in transit; 2 counts.

United States v. Atchison, T. & S. F. Ry. Co., southern district of California. November 21, 1945, indictment charging violations of Commission's regulations governing the transportation of explosives; 8 counts.

United States v. Atchison, T. & S. F. Ry. Co., district of New Mexico. April 22, 1946, information charging violations of Commission's regulations governing the transportation of explosives; 2 counts.

United States v. Atlantic Coast Line R. Co., eastern district of North Carolina. May 6, 1946, complaint charging violations of Commission's Service Order No. 422; 10 counts.

United States v. G. L. Baggett, middle district of Alabama. November 13, 1945, information charging acceptance of concession; 1 count.

United States v. Baltimore & O. R. Co., southern district of New York. July 16, 1946, complaint charging violations of Commission's Service Orders Nos. 368 and 422; 5 counts.

United States v. Walter P. Gardner, Trustee of The Central R. Co. of New Jersey, southern district of New York. July 16, 1946, complaint charging violations of Commission's Service Orders Nos. 368 and 422; 5 counts.

United States v. Chicago & N. W. Ry. Co., western district of Michigan. December 14, 1945, information charging failure to observe demurrage tariff; 1 count.

United States v. Chicago & N. W. Ry. Co., district of Nebraska. March 26, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Chicago & N. W. Ry. Co., southern district of Iowa. July 25, 1946, complaint charging violations of Commission's Service Order No. 244; 6 counts.

United States v. Chicago, B. & Q. Ry. Co., district of Nebraska. March 26, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Chicago, B. & Q. R. Co., southern district of Iowa. July 25, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Chicago G. W. Ry. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Chicago, M., St. P. & P. R. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Jos. B. Fleming and Aaron Colnon, Trustees, Chicago, R. I. & P. Ry. Co., district of Kansas. May 7, 1946, information charging violations of Commission's regulations governing the transportation of explosives; 4 counts.

United States v. Jos. B. Fleming and Aaron Colnon, Trustees, Chicago, R. I. & P. Ry. Co., district of Minnesota. June 11, 1946, information charging unlawful extension of credit; 5 counts.

United States v. Chicago, St. P., M. & O. Ry., Co. northern district of Iowa. April 9, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Chicago, St. P., M. & O. Ry. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Clyde Collins, Inc., western district of Tennessee. July 3, 1946, information charging false billing; 25 counts.

United States v. Erie R. Co., southern district of New York. July 16, 1946, complaint charging violations of Commission's Service Orders Nos. 368 and 422; 10 counts.

United States v. Great Northern Ry. Co., western district of Washington. February 6, 1946, indictment charging violations of Commission's regulations governing the transportation of explosives; 21 counts.

United States v. Great Northern Ry. Co., northern district of Iowa. April 9, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Great Northern Ry. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Gulf, M. & O. R. Co., middle district of Alabama. November 29, 1945, information charging granting of concession; 1 count.

United States v. Gulf, M. & O. R. Co., western district of Tennessee. June 24, 1946, information charging failure to observe demurrage tariff; 15 counts.

United States v. Hyman-Michaels Co., western district of North Carolina. July 26, 1946, information charging failure to observe tariffs, granting of concessions and false billing; 10 counts.

United States v. Illinois Central R. Co., district of Nebraska. March 26, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Lehigh Valley R. Co., southern district of New York. July 16, 1946, complaint charging violations of Commission's Service Orders Nos. 368 and 422; 10 counts.

United States v. Louisville & N. R. Co., middle district of Alabama. November 29, 1945, information charging granting of concession; 1 count.

United States v. Louisville & N. R. Co., eastern district of Illinois. August 19, 1946, information charging violation of Commission's regulations governing the transportation of explosives; 1 count.

United States v. Minneapolis & St. L. Ry. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Minneapolis, St. P. & S. S. M. R. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. The Minnesota Transfer Ry. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Guy A. Thompson, Trustee, Missouri Pac. R. Co., district of Nebraska. March 26, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. New York Central R. Co., southern district of New York. July 16, 1946, complaint charging violations of Service Orders Nos. 368 and 422; 20 counts.

United States v. Howard S. Palmer et al., Trustees, The New York, N. H. and H. R. Co., southern district of New York. July 16, 1946, complaint charging violations of Commission's Service Orders Nos. 368 and 422; 5 counts.

United States v. Northern Pac. Ry. Co., western district of Washington. June 4, 1946, indictment charging violations of Commission's regulations governing the transportation of explosives; 1 count.

United States v. Northern Pac. Ry. Co., district of Minnesota. September 10, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Nutrena Mills, Inc., western district of Missouri. October 18, 1946, information charging soliciting, accepting and receiving concessions through manipulation of transit tariff; 2 counts.

United States v. Pennsylvania R. Co., southern district of New York. July 16, 1946, complaint charging violations of Service Orders Nos. 368 and 422; 20 counts.

United States v. Southern Pac. Co., northern district of California, June 20, 1946, information charging violations of Commission's regulations governing the transportation of explosives; 3 counts.

United States v. Southern Pac. Co., district of Nevada. August 6, 1946, information charging failure to observe demurrage tariffs, granting concessions, and falsification of records; 10 counts.

United States v. Southern Pac. Co., district of Arizona. September 13, 1946, information charging violations of Commission's regulations governing the transportation of explosives; 6 counts.

United States v. Southern Ry. Co., western district of South Carolina. February 25, 1946, information charging violation of Commission's regulations governing the transportation of explosives; 1 count.

United States v. Southern Ry. Co., District of Columbia. May 5, 1946, complaint charging violations of Commission's Service Order No. 436; 5 counts.

United States v. Southern Ry. Co., northern district of Georgia. July 22, 1946, information charging violations of Commission's regulations governing the transportation of explosives; 2 counts.

United States v. Sugar Beet Products Co., eastern district of Michigan. January 30, 1946, information charging false billing; 1 count.

United States v. Union Pac. R. Co., southern district of Iowa. July 25, 1946, complaint charging violations of Commission's Service Order No. 244; 10 counts.

United States v. Western Pac. R. Co., northern district of California. August 8, 1946, information charging unlawful extension of credit; 20 counts.

SUMMARY OF CASES CONCLUDED IN THE UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1945, AND OCTOBER 31, 1946, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE ACT, PART I, THE ELKINS ACT, AND THE TRANSPORTATION OF EXPLOSIVES ACT

United States v. Allied Mills, Inc., district of Nebraska, information charging acceptance of concessions through unlawful use of transit billing. July 26, 1946, plea of *nolo contendere* entered. August 2, 1946, fine of \$2,000 imposed.

United States v. Atchison, T. & S. F. Ry. Co., southern district of California, indictment charging violations of Commission's regulations governing the transportation of explosives. December 3, 1945, plea of *nolo contendere* entered. April 10, 1946, fine of \$500 imposed.

United States v. Atchison, T. & S. F. Ry. Co., district of New Mexico, information charging violations of Commission's regulations governing explosives. July 2, 1946, plea of *nolo contendere* entered and fine of \$200 imposed.

United States v. Atlantic Coast Line R. Co., eastern district of North Carolina, complaint charging violations of Commission's Service Order No. 422. July 20, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Alexander Auerbach, northern district of Ohio, indictment charging false billing. November 26, 1945, plea of guilty entered and fine of \$500 imposed.

United States v. G. L. Baggett, middle district of Alabama, information charging acceptance of concessions. November 13, 1945, plea of guilty entered and fine of \$1,000 imposed.

United States v. The Baltimore and O. R. Co., southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$1,500 accepted.

United States v. Walter P. Gardner, Trustee of The Central R. Co. of New Jersey, southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$1,500 accepted.

United States v. Chicago & N. W. Ry. Co., western district of Michigan, information charging failure to observe demurrage tariff. February 4, 1946, plea of guilty entered and fine of \$1,000 imposed.

United States v. Chicago & N. W. Ry. Co., district of Nebraska, complaint charging violations of Commission's Service Order No. 244. June 26, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Chicago and N. W. Ry. Co., southern district of Iowa, complaint charging violations of Commission's Service Order No. 244. August 30, 1946, confession of judgment entered and penalty of \$600 imposed.

United States v. Chicago, B. & Q. R. Co., district of Nebraska, complaint charging violations of Commission's Service Order No. 244. June 26, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Chicago, B. & Q. R. Co., southern district of Iowa, complaint charging violations of Commission's Service Order No. 244. August 30, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Chicago, St. P., M. & O. Ry. Co., northern district of Iowa, complaint charging violations of Commission's Service Order No. 244. June 27, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Clyde Collins, Inc., western district of Tennessee, information charging false billing. October 10, 1946, verdict of guilty and fine of \$10,000 imposed.

United States v. Erie R. Co., southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$3,000 accepted.

United States v. Edward L. Eyre & Co., northern district of California, information charging acceptance of concessions. November 16, 1945, plea of guilty entered and fine of \$2,000 imposed.

United States v. Great Northern Ry. Co., western district of Washington, indictment charging violations of Commission's regulations governing the transportation of explosives. March 25, 1946, plea of guilty entered and fine of \$2,100 imposed.

United States v. Great Northern Ry. Co., northern district of Iowa, complaint charging violations of Commission's Service Order 244. August 3, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Gulf, M. & O. R. Co., middle district of Alabama, information charging granting of concession. November 29, 1945, plea of *nolo contendere* entered and fine of \$1,000 imposed.

United States v. Gulf, M. & O. R. Co., western district of Tennessee, information charging failure to assess and collect demurrage. October 1, 1946, plea of guilty entered and fine of \$5,000 imposed.

United States v. J. C. Hickson Co., southern district of Florida, information charging solicitation of concessions through furnishing false weights of shipments. April 15, 1946, plea of guilty entered and fine of \$7,500 imposed.

United States v. Hyman-Michaels Co., western district of North Carolina, information charging failure to observe tariffs, granting of concessions and false billing. October 7, 1946, plea of *nolo contendere* entered and fine of \$1,000 imposed.

United States v. Illinois Central R. Co., district of Nebraska, complaint charging violations of Commission's Service Order No. 244. June 26, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Lehigh Valley R. Co., southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$3,000 accepted.

United States v. Lawrence Levin, southern district of California, indictment charging acceptance of concessions. December 11, 1945, verdict of not guilty rendered.

United States v. Louisville & N. R. Co., middle district of Alabama, information charging granting of concession. November 29, 1945, plea of *nolo contendere* entered and fine of \$1,000 imposed.

United States v. Missouri-K. T. Ry. Co., district of Kansas, information charging violations of Commission's regulations governing the transportation of explosives. February 6, 1946, plea of guilty entered and fine of \$400 imposed.

United States v. Guy A. Thompson, Trustee, Missouri Pac. R. Co., district of Nebraska, complaint charging violations of Commission's Service Order No. 244. June 26, 1946, confession of judgment entered and penalty of \$900 imposed.

United States v. H. Muehlstein & Co., Inc., northern district of Ohio, information charging acceptance of concessions. November 7, 1945, verdict of acquittal rendered by court.

United States v. New York Central R. Co., southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$6,000 accepted.

United States v. Howard S. Palmer, et al., Trustees, The New York, N. H. and H. R. Co., southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$1,500 accepted.

United States v. Northern Pac. Ry. Co., western district of Washington, indictment charging violation of Commission's regulations governing transportation of explosives. June 25, 1946, plea of guilty entered and fine of \$250 imposed.

United States v. Nutrena Mills, Inc., western district of Missouri, information charging soliciting, accepting and receiving concessions. October 21, 1946, plea of *nolo contendere* entered and fine of \$2,000 imposed.

United States v. Pennsylvania R. Co., southern district of New York, complaint charging violations of Commission's Service Orders Nos. 368 and 422. October 29, 1946, compromise settlement of \$6,000 accepted.

United States v. Murray J. Rymland, district of Maryland, indictment charging filing of false claim. March 20, 1946, *nolle prosequi* entered after defendant made restitution of amount collected on claim.

United States v. Southern Pac. Co., southern district of California, indictment charging the granting of concessions. December 14, 1945, verdict of not guilty rendered.

United States v. Southern Pac. Co., northern district of California, information charging violations of Commission's regulations governing the transportation of explosives. July 1, 1946, plea of guilty entered and fine of \$1,500 imposed.

United States v. Southern Pac. Co., district of Nevada, information charging failure to observe demurrage tariffs, granting of concessions and falsification of records. September 24, 1946, plea of *nolo contendere* entered and fine of \$5,000 imposed.

United States v. Southern Pac. Co., district of Arizona, information charging violations of Commission's regulations governing the transportation of explosives. October 28, 1946, plea of *nolo contendere* entered and fine of \$600 imposed.

United States v. Southern Ry. Co., western district of North Carolina, information charging violations of Commission's regulations governing the transportation of explosives. November 13, 1945, plea of guilty entered and fine of \$400 imposed.

United States v. Southern Ry. Co., western district of South Carolina, information charging violation of Commission's regulations governing the transportation of explosives. May 28, 1946, plea of *nolo contendere* entered and fine of \$100 imposed.

United States v. Southern Ry. Co., District of Columbia, complaint charging violations of Commission's Service Order No. 436. August 2, 1946, confession of judgment entered and penalty of \$500 imposed.

United States v. Sugar Beet Products Co., eastern district of Michigan, information charging false billing. October 7, 1946, plea of *nolo contendere* entered and fine of \$100 imposed.

United States v. Texas & P. Ry. Co., eastern district of Louisiana, information charging failure to observe tariffs through delivery of shipments in advance of surrender of delivery orders. November 28, 1945, plea of *nolo contendere* entered and fine of \$3,000 imposed.

United States v. Philip E. Thomas, southern district of California, indictment charging false billing. November 5, 1946, *nolle prosequi* entered.

United States v. Union Pac. R. Co., southern district of Iowa, complaint charging violations of Commission's Service Order 244. September 16, 1946, confession of judgment entered and penalty of \$1,000 imposed.

United States v. Western Pac. R. Co., northern district of California, information charging granting of concessions by means of unlawful extension of credit for freight charges. September 30, 1946, plea of *nolo contendere* entered and fine of \$2,000 imposed.

APPENDIX B

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS AND REQUIREMENTS OF THE COMMISSION AND STATUS ON OCTOBER 31, 1946, OF CASES PENDING IN THE COURTS

CASES DECIDED BY THE COURTS SINCE OCTOBER 31, 1945

SUPREME COURT OF THE UNITED STATES

United States v. Detroit & Cleveland Navigation Co.

For case history see 1945 Annual Report, page 128. On November 5, 1945, judgment of the district court was reversed and the Commission's order sustained (326 U. S. 236).

Schenley Distillers Corp. v. United States.

For case history see 1945 Annual Report, page 125. On January 2, 1946, judgment of the district court was affirmed, and the Commission's order sustained (326 U. S. 432).

United States v. Pierce Auto Freight Lines.

For case history see 1944 Annual Report, page 117, and 1945 Annual Report, page 128. On March 11, 1946, judgment of the lower court was reversed and the Commission's order sustained (327 U. S. 515).

Akin v. United States.

For case history see 1945 Annual Report, page 125. On March 11, 1946, judgment of the lower court was affirmed on motion (327 U. S. 766).

McAllister Lighterage Line v. United States.

For case history see 1945 Annual Report, page 125. On March 25, 1946, judgment of the lower court was affirmed and the Commission's order sustained (327 U. S. 655).

Gustafus V. Iversen v. United States.

Suit to set aside Fourth Revised Service Order No. 180, Service Order No. 394, and Service Order No. 396, increasing demurrage on refrigerator cars, reducing the free time for the unloading of refrigerator cars, and restricting the privilege of reconsigning of refrigerator cars containing certain perishable traffic. On December 15, 1945, the petition was filed. On January 9, 1946, the Commission's orders were sustained (63 Fed. Supp. 1001) with certain exceptions. On March 6, 1946, the case was docketed on appeal to the Supreme Court, and on March 25, 1946, the Commission's motion to affirm was granted (327 U. S. 767).

El Dorado Oil Works v. United States.

For case history see 1945 Annual Report, page 124. On April 22, 1946, the Commission's order was sustained on the merits (328 U. S. —).

Guy A. Thompson, Trustee, The St. Louis, Brownsville & Mexico Ry. Co. et al. v. The Texas Mexican Ry. Co.

For case history see 1945 Annual Report, page 128. On April 29, 1946, judgment of the lower court was reversed, and the case remanded for further proceedings before the Interstate Commerce Commission (328 U. S. —).

Forrest S. Smith, Trustee, v. Hoboken R. R., W. H., & S. S. Co.

Suit involving right of a lessor to terminate railroad right-of-way under 99-year lease entered into in 1906, containing covenant that lease would not be sold or transferred "in any proceeding whether at law or in equity, or otherwise," to which lessee is a party, because of adoption of lease pursuant to bankruptcy court's direction, by trustee appointed for railroad lessee in section 77 proceedings. On October 22, 1945, petition for writ of certiorari was allowed, and Solicitor General invited to file brief *amicus curiae*. On December 11, 1945, the case was argued and submitted for decision, and on April 29, 1946, judgment of the lower court was reversed and the case remanded for further proceedings before the Interstate Commerce Commission (328 U. S. —).

Howard Hall Co., Inc., v. United States.

For case history see 1945 Annual Report, page 125. On November 26, 1945, the case was docketed on appeal to the Supreme Court, and on May 6, 1946, judgment of the district court was affirmed, and the Commission's order sustained. (328 U. S.—).

General Transportation Co. v. United States.

For case history see page 131, this volume. On October 14, 1946, motion to affirm of United States and Commission was granted, and the Commission's order sustained.

Otis Evans T/A Otis Evans Truck Line v. United States.

For case history see page 130, this volume. On October 14, 1946, motion to affirm of United States and Commission was granted, and the Commission's order sustained.

DISTRICT COURTS OF THE UNITED STATES

Erie R. Co. v. United States, southern district of Ohio, eastern division.

For case history see 1945 Annual Report, page 130. On December 8, 1945, the Commission's order was sustained (64 Fed. Supp. 162), and on April 16, 1946, the case was discontinued because not appealed within the time prescribed by law.

Henderson v. Interstate Commerce Commission, district of Maryland.

For case history see 1945 Annual Report, page 129. On December 17, 1945, the Commission's order was set aside (63 Fed. Supp. 906), and the case remanded to the Commission for further proceedings in conformity with the provisions outlined in the opinion. On March 11, 1946, the case was discontinued, the Commission having decided not to appeal.

McLean Trucking Co., Inc., v. United States, middle district of North Carolina.

For case history see 1945 Annual Report, page 130. On December 29, 1945, the Commission's order was sustained (63 Fed. Supp. 829), and on February 28, 1946, the case was discontinued because not appealed within the time prescribed by law.

Federal Truck Lines, Inc., v. United States, northern district of Illinois, eastern division.

For case history see 1945 Annual Report, page 131. On January 22, 1946, the Commission's order was sustained, and on June 24, 1946, the case was discontinued because appeal was not perfected within the time prescribed by law.

Gustafus V. Iversen v. United States, District of Columbia.

For case history see page 129, this volume.

Seatrain Lines, Inc., v. United States, district of Delaware.

For case history see 1945 Annual Report, page 130. On January 30, 1946, the Commission's order was held invalid (64 Fed. Supp. 156), and on March 16, 1946, the case was docketed on appeal to the Supreme Court.

Garford Trucking, Inc., v. United States, district of New Jersey.

For case history see 1945 Annual Report, page 129. On March 1, 1946, the Commission's order was sustained (64 Fed. Supp. 780), and on July 15, 1946, the case was discontinued because not appealed within the time prescribed by law.

State of Nebraska and Nebraska Railway Commission v. United States, northern district of Illinois, eastern division.

For case history see 1945 Annual Report, page 132. On December 10, 1945, the court sustained the Commission's order and dismissed the petition, and on February 11, 1946, the case was discontinued because not appealed within the time prescribed by law.

Ajax Van Lines, Inc., v. United States, northern district of Illinois, eastern division.

Suit to set aside Commission's orders of April 28, 1944, in Docket No. MC-23523, *Ajax Van Lines, Inc. Common Carrier Application*, 43 M. C. C. 817, insofar as plaintiff is denied nonradial operating authority under the "grandfather" clause of section 206 (a) to serve certain territory within the United States. On November 1, 1945, the complaint was filed, and on February 6, 1946, the Commission's orders were sustained and the complaint dismissed. On April 16, 1946, the case was discontinued because not appealed within the time prescribed by law.

Otis Evans v. United States, western district of Virginia, Danville division.

Suit to set aside Commission's order of March 29, 1945, in Docket No. MC-30559, *Evans Common Carrier Application*, 44 M. C. C. 815, denying to applicant all authority to operate under the "grandfather" clause for failure to establish his right to do so. On January 2, 1946, the petition was filed, on March 30, 1946, the

Commission's order was sustained (65 Fed. Supp. 183), and on July 13, 1946, the case was docketed on appeal to the Supreme Court, where on October 14, 1946, the decision of the lower court was affirmed.

General Transportation Co. v. United States, district of Massachusetts.

For case history, see 1945 Annual Report, page 130. On March 29, 1946, the Commission's order was sustained (65 Fed. Supp. 981), and on July 5, 1946, the case was docketed on appeal to the Supreme Court, where, on October 14, 1946, the decision of the lower court was affirmed.

Fine & Jackson Trucking Corp. v. United States, district of New Jersey.

Suit to set aside Commission's report and order of June 9, 1945, in Docket No. MC-55857 (also MC-64454) finding that applicant's operations as a common carrier and a contract carrier by motor vehicle were not consistent with the public interest and the national transportation policy, and requiring an election. On November 13, 1945, the petition was filed, and on April 18, 1946, owing to absence of proper findings, the case was remanded to the Commission for appropriate action (65 Fed. Supp. 443). On July 29, 1946, the case was discontinued owing to reopening of the proceeding by the Commission in conformity with the opinion of the court.

Burlington Transportation Co. v. United States, northern district of Illinois, eastern division.

For case history see 1945 Annual Report, page 130. On May 7, 1946, the Commission's order was sustained, and on July 15, 1946, the case was discontinued because not appealed within the time prescribed by law.

Consolidated Copperstate Lines v. United States, western district of Texas, El Paso division.

For case history see 1945 Annual Report, page 129. On May 31, 1946, the Commission's order was sustained (65 Fed. Supp. 950). On August 1, 1946, the case was discontinued because not appealed within the time prescribed by law.

State of New York, et al. v. United States, northern district of New York.

Suit to set aside Commission's order of May 15, 1945, as amended by its supplemental report and order of October 30, 1945, in Docket No. 28300, *Class Rate Investigation, 1939*, 262 I. C. C. 447 and 264 I. C. C. 41, and No. 28310, *Consolidated Freight Classification*, 262 I. C. C. 447 and 264 I. C. C. 41, finding, among other things, that the present official, Illinois, southern and western classifications, in so far as the ratings named therein are concerned, as a whole are, and for the future will be, unreasonable and in violation of section 1 (4) and (6) of the Interstate Commerce Act. On November 29, 1945, the complaint was filed, and on May 9, 1946, the Commission's order was sustained (65 Fed. Supp. 856). On May 27, 1946, a stay order, pending appeal, was granted by the district court, and on June 10, 1946, motion of United States and the Commission to vacate the injunction, pending appeal, was denied by the Supreme Court. On August 1, 1946, the case was docketed on appeal to the Supreme Court.

Ayrshire Collieries Corp. v. United States, southern district of Indiana.

Suit to set aside Commission's order of July 9, 1945, in I. & S. Docket No. 5139, *Coal to Beloit, Wis., and Northern Illinois*, 263 I. C. C. 179, wherein the Commission prescribed, in part, bases for reasonable, nondiscriminatory and nonprejudicial rates from Illinois, Indiana, and western Kentucky mines to northern Illinois destinations and Beloit, Wis. On December 21, 1945, the petition was filed, and on June 5, 1946, the Commission's order was sustained and the complaint dismissed. On September 6, 1946, the case was docketed on appeal to the Supreme Court.

Chicago, M., St. P. & P. R. Co. v. United States, southern district of Indiana.

Suit to set aside Commission's order of July 9, 1945, in I. & S. Docket No. 5139, *Coal to Beloit, Wis., and Northern Illinois*, 263 I. C. C. 179, only in so far as it affects rates charged by the Chicago, M., St. P. & P. R. Co. On December 27, 1945, the petition was filed, on June 5, 1946, the Commission's order was sustained and the complaint dismissed, and on September 6, 1946, the case was docketed on appeal to the Supreme Court.

Baltimore & Ohio R. Co. v. United States, western district of Pennsylvania.

Suit to set aside Commission's report and order of October 2, 1945, in Docket No. 28825, *Bituminous Coal to Youngstown District*, 263 I. C. C. 683, as modified by its report on reconsideration dated March 4, 1946, 264 I. C. C. 347, finding certain rates on bituminous coal, in carloads, from points in Pennsylvania and Maryland, and certain mining points in West Virginia to Youngstown, Ohio, and to other points in Ohio and Pennsylvania in the Youngstown district, all-rail rates from Indianola and Russellton, Pa., and mines in the Pittsburgh and Lee-

tonia districts in Pennsylvania, and ex-river rates from Conway and Colona, Pa., to destinations in the Youngstown district, unjust and unreasonable. On April 5, 1946, the bill of complaint was filed, and on May 27, 1946, the Commission's order was sustained (65 Fed. Supp. 962.).

Gardner, Trustee, The Central R. Co. of New Jersey v. United States, district of New Jersey.

Suit to set aside Commission's order of October 10, 1945, in Docket No. 27766, *Alden Coal Co. v. Central R. Co. of New Jersey*, 263 I. C. C. 639, wherein the Commission reduced the rates on anthracite from Pennsylvania anthracite regions to New York tidewater piers. On February 11, 1946, the complaint was filed, and on July 12, 1946, the Commission's order was sustained (67 Fed. Supp. 230). On October 5, 1946, the case was discontinued because not appealed within the time prescribed by law.

W. H. Tomkins Co., now Tomkins Motor Lines, Inc., v. United States, middle district of Tennessee, Nashville division.

For case history see 1945 Annual Report, page 131. On July 8, 1946, the Commission's order was sustained.

A. Johnston v. United States, western district of Oklahoma.

For case history, see 1945 annual report, page 128, and page 132, this volume.

E. S. Lubfin, dba Safeway Motor Coach Lines v. Interstate Commerce Commission, district of Oregon.

For case history, see 1945 Annual Report, page 129. On February 26, 1946, the court rendered a decision overruling the objection to venue raised by the United States, and on May 17-18, 1946, the case was argued and submitted on the merits.

CASES DISCONTINUED

DISTRICT COURTS OF THE UNITED STATES

Creston Transfer Co. v. United States, southern district of Indiana, Indianapolis division.

For case history see 1945 Annual Report, page 125. On November 1, 1945, the case was discontinued because not appealed within the time prescribed by law.

A. Johnston v. United States, western district of Oklahoma.

For case history see 1945 Annual Report, page 128. On November 15, 1945, after argument, the case was dismissed by the court with prejudice.

Seatrain Lines, Inc., v. United States, eastern district of Kentucky, Lexington division.

For case history see 1945 Annual Report, page 131. On December 20, 1945, an order was entered by the court dismissing the case on stipulation of the parties.

McLean Trucking Co., Inc., v. United States, middle district of North Carolina.

For case history see page 130, this volume.

State of Nebraska and Nebraska Railway Commission v. United States, northern district of Illinois, eastern division.

For case history see 1945 Annual Report, page 132, and page 130, this volume.

Rockland Coaches, Inc., v. United States, southern district of New York.

For case history see 1945 Annual Report, page 128. On February 4, 1946, advice was received that the case had been dismissed pursuant to order of the court.

Motor Fuel Carriers, Inc., of Tampa, Fla., v. United States, Eastern district of Virginia.

For case history see 1945 Annual Report, page 131. On February 19, 1946, the case was dismissed on stipulation of all parties, the issues having become moot.

Henderson v. Interstate Commerce Commission, district of Maryland.

For case history see page 130, this volume.

Pasquale DeCola v. United States, district of Connecticut.

For case history see 1944 Annual Report, page 120. On February 14, 1946, the case was dismissed by the court for lack of prosecution.

Inland Navigation Co. v. United States, eastern district of Washington, southern division.

For case history see 1944 Annual Report, page 122. On April 1, 1946, advice was received of dismissal of the case for lack of prosecution.

Erie R. Co. v. United States, southern district of Ohio, eastern division.

For case history see page 130, this volume.

Ajax Van Lines, Inc., v. United States, northern district of Illinois, eastern division.

For case history see page 130, this volume.

Rockland Coaches, Inc., v. United States, southern district of New York.

For case history see 1943 Annual Report, page 146. On June 13, 1946, the case was dismissed by the court for lack of prosecution.

Creston Transfer Co. v. United States, eastern district of New York.

For case history see 1945 Annual Report, page 129. On June 25, 1946, the case was dismissed by the court for lack of prosecution.

Federal Truck Lines, Inc., v. United States, northern district of Illinois, eastern division.

For case history see page 130, this volume.

Dohrn Transportation Corp. v. United States, southern district of Illinois, northern division.

Suit to set aside Commission's certificate of August 24, 1945, in Docket No. MC-102608 (Sub-No. 4), *Hurst Extension—Chicago, Ill.*, 44 M. C. C. 842, granting a certificate of public convenience and necessity as a common carrier by motor vehicle of general commodities, with exceptions, serving Kewanee and Princeton, Ill., as intermediate points in connection with at present authorized regular-route operations. On April 2, 1946, the complaint was filed, and on June 3, 1946, the court granted the motion to dismiss on ground of improper venue which had been filed on behalf of defendants.

Fine & Jackson Trucking Corp. v. United States, district of New Jersey.

For case history see page 131, this volume.

Cleveland Union Stockyards Co. v. United States, northern district of Ohio, eastern division.

For case history see 1944 Annual Report, page 121. On July 1, 1946, the case was discontinued for lack of prosecution.

Garford Trucking, Inc., v. United States, district of New Jersey.

For case history see page 130, this volume.

Burlington Transportation Co. v. United States, northern district of Illinois, eastern division.

For case history see page 131, this volume.

In the Matter of Chicago, R. I. & P. Ry. Co., Debtor, northern district of Illinois.

For case history see 1941 Annual Report, page 160. On August 1, 1946, the case was discontinued because of lack of prosecution.

Gardner, Trustee, The Central R. Co. of New Jersey v. United States, district of New Jersey.

For case history see page 132, this volume.

Rochester Transit Corporation v. United States, western district of New York, Rochester division.

For case history, see 1944 annual report, page 121. On September 6, 1946, the case was argued, submitted, and taken under advisement. On September 27, 1946, order of dismissal, pursuant to stipulation of parties, was entered by the court.

Consolidated Copperstate Lines v. United States, western district of Texas, El Paso division.

For case history see page 131, this volume. On October 7, 1946, the case was discontinued because not appealed within the time prescribed by law.

Riss & Co., Inc. v. United States, western district of Missouri, western division.

For case history see 1945 annual report, page 131. On October 10, 1946, the case was dismissed by the court on plaintiff's motion.

CASES PENDING

SUPREME COURT OF THE UNITED STATES

Champlin Refining Co. v. United States.

For case history see 1945 Annual Report, page 124. On November 9, 1945, the case was argued and submitted for decision, and on November 19, 1945, it was set down for reargument before a full bench.

Levinson v. Spector Motor Service, Inc.

For case history see 1945 Annual Report, page 128. On January 2, 1946, the case was restored to the docket for reargument before a full bench.

United States v. Seatrain Lines, Inc.

For case history see page 130, this volume.

Interstate Commerce Commission v. A. L. Mechling dba Mechling Barge Line.

For case history see 1945 Annual Report, page 126. On March 16, 1946, the case was docketed on appeal to the Supreme Court.

Interstate Commerce Commission v. Inland Waterways Corp.

For case history see 1945 Annual Report, page 126. On March 16, 1946, the case was docketed on appeal to the Supreme Court.

Interstate Commerce Commission v. The Secretary of Agriculture of the United States.

For case history see 1945 Annual Report, page 126. On March 16, 1946, the case was docketed on appeal to the Supreme Court.

State of New York et al. v. United States.

For case history see page 131, this volume.

Ayrshire Collieries Corp. v. United States.

For case history see page 131, this volume.

Chicago, M., St. P. & P. R. Co. v. United States.

For case history see page 131, this volume.

DISTRICT COURTS OF THE UNITED STATES

Spring Valley Motor Coach Co., Inc., v. United States, southern district of New York.

For case history see 1943 Annual Report, page 146.

Auclair v. United States, district of Massachusetts.

For case history see 1943 Annual Report, page 146.

All States Freight, Inc., v. United States, northern district of Ohio, eastern division.

For case history see 1944 Annual Report, page 121.

Miami Transportation Co., Inc., of Indiana, v. United States, southern district of Indiana, Indianapolis division.

For case history see 1945 Annual Report, page 129.

E. S. Lubfin, dba Safeway Motor Coach Lines v. Interstate Commerce Commission, district of Oregon.

For case history see 1945 Annual Report, page 129. On February 26, 1946, the venue objection of the United States was overruled, and on May 17-18, 1946, the case was argued and submitted for decision.

Shawmut Transportation Co., Inc., v. United States, district of Massachusetts.

For case history see 1945 Annual Report, page 129.

Herrin Transp. Co. v. United States, southern district of Texas, Houston division.

For case history see 1945 Annual Report, page 130. On November 30, 1945, after argument, the Commission's motion to dismiss was taken under advisement and the case continued generally, pending disposition of the proceeding on reopening by the Commission.

W. H. Tomkins Co., now Tomkins Motor Lines v. United States, middle district of Tennessee, Nashville division.

For case history see page 132, this volume.

Asbury Park-New York Transit Corp. v. United States, southern district of New York.

For case history see 1945 Annual Report, page 131.

New York Central R. Co. v. United States, southern district of Ohio, eastern division.

For case history see 1945 Annual Report, page 131.

Stearn and Hartman v. United States, western district of Virginia.

For case history see 1945 Annual Report, page 132. Case held in abeyance pending further action by the Commission.

On-Time Transfer Co. v. United States, district of Nebraska, Omaha division.

Suit to set aside Commission's report and order of March 26, 1945, in Docket No. MC-C-395, *On-Time Transfer Co. v. Buckingham*, 44 M. C. C. 389, wherein the Commission found that entry of an order requiring defendants to comply with all terms and conditions in certain certificates held by them, and with the provisions of section 216 (b) of the act, was not warranted, and dismissed the complaint. On November 1, 1945, the complaint was filed, and on December 20, 1945, the Commission's answer was filed. On January 17, 1946, supplemental answer of the Commission was filed.

A. B. & C. Motor Transportation Co., Inc., v. United States, district of Massachusetts.

Suit to set aside Commission's report and certificate of May 28, 1945, (petition for reconsideration denied October 1, 1945), in Docket No. MC-61019 (Sub-No. 3), *Fish Transport Co., Inc., Extension—General Commodities*, 44 M. C. C. 826, wherein public convenience and necessity were found to require operation by applicant as a common carrier by motor vehicle of general commodities, with exceptions, from New York, N. Y., to New Bedford, Mass., over a regular route, serving described off-route points. On February 27, 1946, the complaint was filed, and on April 11, 1946, the Commission's answer was filed.

Inland Navigation Co., a Corporation, v. United States, eastern district of Washington, southern division.

Suit by competing water carriers to set aside Commission's order of February 6, 1945, in Docket No. W-507, *Tidewater Transp. Co. Common Carrier Application*, 260 I. C. C. 510, authorizing operation as a common carrier by non-self-propelled vessels with the use of separate towing vessels in the transportation of commodities generally, and by towing vessels in the performance of general towage, in interstate or foreign commerce, between ports and points on the Willamette and Columbia Rivers between Portland, Oreg., and Pasco and Kennewick, Wash. On March 25, 1946, the complaint was filed, and on June 14, 1946, the Commission's intervention and answer were filed.

Robert Berman and Ethel Berman, a Copartnership, v. United States, northern district of Alabama, southern division.

Suit to set aside Commission's report and order of November 14, 1945, in Docket No. 29178, *Berman Bros. Iron Metal Co. v. Alabama G. S. R. Co.*, 263 I. C. C. 678, dismissing a complaint attacking rate on reclaimed lead, in pigs, in carloads, from Birmingham, Ala., to Chicago, Ill. On April 3, 1946, the complaint was filed, and on May 31, 1946, the Commission's answer was filed.

Baltimore & Ohio R. Co. v. United States, western district of Pennsylvania.

Suit to set aside Commission's report and order dated October 2, 1945, in Docket No. 28825, *Bituminous Coal to Youngstown District*, 263 I. C. C. 683, as modified by its report on reconsideration dated March 4, 1946, 264 I. C. C. 347, finding certain rates on bituminous coal, in carloads, from points in Pennsylvania and Maryland, and certain mining points in West Virginia to Youngstown, Ohio, and to other points in Ohio and Pennsylvania in the Youngstown district, all rail rates from Indianola and Russellton, Pa., and mines in the Pittsburgh and Leetonia districts, in Pennsylvania, and ex-river rates from Conway and Colona, Pa., to destinations in the Youngstown district, unjust and unreasonable. On April 5, 1946, the complaint was filed, and on May 27, 1946, the Commission's order was sustained (65 Fed. Supp. 962).

International Railway Co. v. United States, western district of New York.

Suit to set aside Commission's report of October 2, 1945, in Docket No. MC-28659 (Sub-No. 1-Ex.), *International Ry. Co. Exemption Application*, 41 M. C. C. 567, 43 M. C. C. 818 and 44 M. C. C. 789, finding that operation by applicant solely within New York to be not of such nature, character, or quantity that exemption from regulation under the motor carrier act would not substantially affect or impair uniform regulation of transportation of passengers by motor carriers in interstate or foreign commerce. On May 23, 1946, the petition was filed, and on August 1, 1946, the Commission's intervention and answer were filed.

Deaton Truck Line, Inc., v. United States, northern district of Alabama, southern division.

Suit to set aside Commission's report and order of November 2, 1945 (petition for rehearing denied April 8, 1946), in Docket No. MC-11207 (Sub-No. 47), *Deaton Truck Line Common Carrier Application*, in so far as it denied applicant the right to transport general commodities. On May 31, 1946, the complaint was filed, and on June 17, 1946, after argument, interlocutory injunction was denied, pending final decision.

Dohrn Transfer Co. v. United States, northern district of Illinois, eastern division.

Suit to set aside Commission's report and certificate of August 24, 1945, in Docket No. MC-102608 (Sub-No. 4), *Hurst Extension—Chicago, Ill.*, 44 M. C. C. 842, granting a certificate of public convenience and necessity as a common carrier by motor vehicle of general commodities, with exceptions, serving Kewanee and Princeton, Ill., as intermediate points in connection with at present authorized regular-route operations. On June 14, 1946, the complaint was filed, and on July 17, 1946, the Commission's answer was filed.

The Motor Haulage Co., Inc., v. United States, eastern district of New York.

Suit to set aside Commission's report and order of January 7, 1946, in Docket No. MC-31214, finding the Motor Haulage Company, Inc., to be a contract carrier by motor vehicle, limited to a certain type of service, and of specified commodities, over irregular routes; and in Docket No. MC-60387, finding Bonner Hauling Co., Inc., to be the same type of carrier in other territory. (Prior reports, 41 M. C. C. 404; 43 M. C. C. 563, and 43 M. C. C. 802.) On June 15, 1946, the petition was filed, and on August 14, 1946, the Commission's intervention and answer were filed.

C. W. Falwell, Jr. v. United States, western district of Virginia, Lynchburg division.

Suit to set aside Commission's report and order of February 22, 1945, in so far as C. W. Falwell, Jr., and Falwell Fast Freight, Inc., were denied authority to purchase the irregular operating rights of W. B. Draper, d. b. a. Draper Motor Service, in a proceeding entitled *Falwell Fast Frt., Inc.—Purchase—W. B. Draper, and Evans Line, Inc.*, 40 M. C. C. 127, between Lynchburg, Va., and Roanoke, Va. On July 6, 1946, the petition was filed, and on September 6, 1946, the Commission's intervention and answer were filed.

Middle Atlantic States Motor Carrier Conference, Inc., v. United States, district of Delaware.

Suit to set aside Commission's report and order of March 15, 1945, (44 M. C. C. 367), as modified by its supplemental report of September 27, 1945, (44 M. C. C. 686), in Docket No. MC-C-360, and I. & S. Docket No. M-2160, wherein the Commission found certain class-rate restrictions of motor common carriers between points in central territory, interterritorially, and between points in central, trunk-line, and New England territories, unjust and unreasonable, and prescribed a new basis of maximum reasonable class-rate restrictions. On August 12, 1946, the petition was filed, and on September 17, 1946, the case was argued and submitted for decision.

Everett A. Hogland v. United States, district of Oregon.

Suit by protesting motor carriers to set aside Commission's report and order of March 14, 1946, in Docket No. MC-95070 (Sub-No. 1), *Lee A. Chappell—Extension of Operations—Oregon*, wherein the Commission authorized the issuance of a certificate of public convenience and necessity authorizing an extension of operations by applicant as a common carrier by motor vehicle of household goods between points in Oregon, except Portland, on the one hand, and points in Washington, on the other, over irregular routes. On September 10, 1946, the petition was filed.

Corn Products Refining Co. v. United States, northern district of Illinois, eastern division.

Suit to set aside Commission's seventy-fourth supplemental report in Ex Parte 104, *Corn Products Refining Co. Terminal Service*, 262 I. C. C. 57 and 266 I. C. C. 181, wherein the Commission affirmed findings in a prior report that respondent's line-haul rates do not include services beyond the interchange tracks, described in the report, and that the performance by respondents of services beyond those points without compensation in addition to the line-haul rate would violate section 6 (7) of the Interstate Commerce Act. On September 24, 1946, the petition was filed.

APPENDIX C

STATISTICAL SUMMARIES

- A. Statistics of railway development since 1935.
 B. Statistics from monthly and other periodical reports of carriers.

A. Statistics of Railway Development

Data for years preceding 1935 for most of the tables appear in prior reports.

TABLE I.—*Mileage operated and mileage owned by steam railways in the United States, 1935-45*

Year ended Dec. 31—	Road owned in the United States ¹ (first main track)	Total miles of all tracks operated, excluding trackage rights ²	Mileage operated by classes I, II, and III line-haul railways (including trackage rights)			
			First main track	Second or additional main tracks	Yard track and sidings	All tracks
1935.....	241,822	398,396	252,930	41,916	124,382	419,228
1936.....	240,104	395,253	251,542	41,731	123,108	416,381
1937.....	238,539	393,030	250,582	41,579	122,411	414,572
1938.....	236,842	389,704	248,474	41,589	121,261	411,324
1939.....	235,064	386,819	246,922	41,445	119,983	408,350
1940.....	233,670	385,178	245,740	41,373	118,862	405,975
1941.....	231,971	382,439	244,263	41,166	118,196	403,625
1942.....	229,174	378,570	241,737	41,137	116,753	399,627
1943.....	227,999	377,631	240,745	41,093	116,892	398,730
1944.....	227,335	377,210	240,215	41,178	117,044	398,437
1945.....	226,696	376,772	239,438	41,106	117,510	398,054

¹ Includes mileage of some small companies that do not make annual reports to the Commission.

² Includes mileage of classes I, II, and III line-haul railways and switching and terminal companies.

TABLE II.—*Equipment of steam railways, including switching and terminal companies, in service at the close of each year, 1935-45* ¹

Year ended Dec. 31—	Locomotives							
	Steam		Electric		Diesel-electric		Other	
	Number	Average tractive effort ²	Number	Average tractive effort ²	Number	Average tractive effort ²	Number	Average tractive effort ²
		Pounds		Pounds		Pounds		Pounds
1935.....	48,477	48,367	884	53,688	130	(³)	50	(³)
1936.....	46,923	48,972	858	54,731	175	(³)	53	(³)
1937.....	46,342	49,412	872	54,957	293	(³)	48	(³)
1938.....	45,210	49,803	882	55,402	403	(³)	49	(³)
1939.....	43,604	50,395	879	55,661	639	(³)	50	(³)
1940.....	42,410	50,905	900	56,238	967	55,130	56	22,610
1941.....	41,911	51,217	895	56,301	1,517	54,733	52	22,628
1942.....	41,755	51,811	892	56,591	1,978	54,942	46	22,740
1943.....	41,983	52,451	907	56,896	2,476	55,200	40	19,923
1944.....	41,921	52,822	902	56,878	3,432	56,398	50	21,684
1945.....	41,018	53,217	885	57,295	4,301	55,868	49	21,474

See footnotes at end of table.

TABLE II.—*Equipment of steam railways, including switching and terminal companies, in service at the close of each year, 1935-45*¹—Continued

Year ended Dec. 31—	Cars					
	Freight cars (excluding cabooses)		Passenger train	Coaches		
	Number	Average capacity ²		Number	Average seating capacity ²	Number air-con- ditioned ²
		<i>Tons</i>				
1935.....	1,867,381	48.3	42,426	19,384	78	(³)
1936.....	1,790,043	48.8	41,390	18,893	80	(³)
1937.....	1,776,428	49.2	40,949	18,585	78	3,387
1938.....	1,731,096	49.4	39,931	18,124	78	3,732
1939.....	1,680,519	49.7	38,977	17,827	78	4,106
1940.....	1,684,171	50.0	38,308	17,470	77	4,374
1941.....	1,732,673	50.3	38,334	17,490	77	4,784
1942.....	1,773,735	50.5	38,446	17,807	77	5,166
1943.....	1,784,472	50.7	38,331	17,929	77	5,291
1944.....	1,797,012	50.8	38,217	17,842	77	5,316
1945.....	1,787,073	51.1	38,633	17,668	77	5,326

¹ Privately owned cars and cars owned or leased by the Pullman Co., are not included. In 1945, privately owned freight-carrying cars numbered 268,109, and cars owned or leased by the Pullman Co., 8,590.

² Class I steam railways.

³ Not available in these years.

TABLE III.—*Railway capital actually outstanding and net income, 1935-45: Line-haul railways and their lessor subsidiaries*

Year ended Dec. 31—	Total rail- way capital	Funded debt unmatured ¹	Preferred stock	Common stock	Ratio of debt to capital	Net income ²	Ratio of net in- come to stock
	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Percent</i>	<i>Thousands</i>	<i>Percent</i>
1935.....	\$22,079,551	\$12,154,349	\$2,017,731	\$7,907,471	55.0	\$52,177	0.53
1936.....	21,961,035	12,031,385	2,016,857	7,912,793	54.8	221,591	2.23
1937.....	21,694,645	11,881,981	2,022,887	7,789,777	54.8	146,351	1.49
1938.....	21,428,320	11,639,907	2,022,436	7,765,977	54.3	87,468	
1939.....	21,193,501	11,419,945	2,022,266	7,751,290	53.9	141,134	1.44
1940.....	21,047,280	11,277,306	2,036,121	7,733,853	53.6	243,148	2.49
1941.....	20,707,778	11,208,816	1,952,593	7,546,369	54.1	557,672	5.87
1942.....	20,471,191	10,970,648	1,935,222	7,565,321	53.6	992,843	10.45
1943.....	19,913,582	10,484,259	1,912,119	7,517,204	52.6	946,150	10.03
1944.....	19,402,593	9,954,215	1,984,173	7,464,206	51.3	733,461	7.76
1945.....	18,681,292	9,257,950	1,980,750	7,442,592	49.6	502,250	5.33

¹ Does not include long-term debt in default. For class I railways and their nonoperating subsidiaries such debt amounted to \$704,595 (thousands) at the close of 1945.

² Intercorporate duplications not eliminated, but amounts shown correspond with the stock in the second and third preceding columns. Deficits shown in italics.

TABLE IV.—*Dividends, 1935-45: Line-haul railways and their lessor subsidiaries*

Year ended Dec. 31—	Proportion of stock paying dividends ¹	Amount of dividends ¹	Average rate on—		Dividends declared ²	
			Dividend- paying stock ¹	All stock	On preferred stock	On common stock
	<i>Percent</i>	<i>Thousands</i>	<i>Percent</i>	<i>Percent</i>		
1935.....	34.39	\$202,568	5.94	2.04	\$17,956,113	\$108,326,193
1936.....	36.20	231,733	6.45	2.33	27,559,427	142,269,863
1937.....	39.64	227,596	5.85	2.32	27,488,440	140,413,594
1938.....	32.07	136,270	4.34	1.39	13,643,634	69,088,932
1939.....	32.64	179,412	5.62	1.84	19,154,336	106,799,624
1940.....	38.29	216,522	5.79	2.22	23,540,218	135,774,682
1941.....	40.65	239,438	6.20	2.52	27,445,002	158,400,721
1942.....	56.37	254,088	4.74	2.67	34,422,097	167,848,035
1943.....	57.97	263,919	4.83	2.83	37,046,973	179,496,716
1944.....	58.46	292,248	5.29	3.09	54,577,117	191,401,095
1945.....	57.13	295,294	5.49	3.13	48,448,791	197,543,159

¹ Includes figures for lessors and operating railways without excluding duplications on account of intercorporate payments. Stock dividends for the last 11 years have been as follows: \$15,436,348 in 1936 and \$705,000 in 1943.

² By class I line-haul railways.

TABLE V.—*Reported property investment and selected income items, 1935-45: Line-haul railways and their lessor subsidiaries*

Year ended Dec. 31—	Investment ¹	Invest- ment per mile of road	Depre- ciation reserve	Net railway operating income ²	Other in- come ³	Fixed charges and other deduc- tions ⁴	Net income ⁵
	<i>Thousands</i>		<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>
1935.....	\$25,500,465	\$106,339	\$2,771,404	\$505,415	\$186,228	\$686,688	\$52,177
1936.....	\$25,432,388	106,783	2,809,063	675,600	182,821	693,479	221,591
1937.....	\$25,636,082	108,235	2,950,848	597,841	170,337	670,291	146,351
1938.....	\$25,595,739	108,871	3,044,972	376,865	150,566	654,023	87,468
1939.....	\$25,538,157	109,351	3,102,779	595,961	156,050	655,505	141,134
1940.....	\$25,646,014	110,449	3,095,237	690,554	163,385	662,848	243,148
1941.....	\$25,668,984	111,352	\$3,240,145	1,009,592	169,519	674,455	557,672
1942.....	\$25,838,351	113,364	\$3,561,570	1,499,364	175,296	764,055	992,843
1943.....	\$26,145,458	115,288	\$3,939,562	1,370,569	194,440	686,576	946,150
1944.....	\$26,631,654	117,771	\$4,382,604	1,113,153	202,827	647,064	733,461
1945.....	\$26,967,756	119,664	\$5,549,720	858,864	196,081	602,691	502,250

¹ Includes investment of operating, lessor, and proprietary companies. Proprietary companies do not render annual reports to the Commission but information concerning them is given in reports of the operating companies.

² This term, as defined in the Interstate Commerce Act, means "railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents."

³ Includes amounts received as interest or dividends on railroad securities owned by reporting carriers. See Statistics of Railways, table 109. Figures represent classes I, II, and III line-haul railways.

⁴ The interest included represents accruals, not payments. In 1945, the interest accrued on unmatured funded debt and long-term debt in default in excess of payments was \$43,907,139 for class I steam railways. Figures represent classes I, II, and III line-haul railways.

⁵ Includes investment of lessor and proprietary companies, as follows, but excludes investment of proprietary companies in systems which file consolidated annual reports combining the mileage, investment, and other items on a net system basis.

Year	Lessor companies	Proprietary companies	Year	Lessor companies	Proprietary companies
	<i>Thousands</i>	<i>Thousands</i>		<i>Thousands</i>	<i>Thousands</i>
1935.....	\$4,302,199	\$861,716	1941.....	\$4,000,275	\$818,060
1936.....	4,690,072	861,696	1942.....	3,933,048	803,280
1937.....	4,174,633	848,173	1943.....	3,885,103	858,312
1938.....	4,105,320	840,033	1944.....	3,865,708	811,979
1939.....	4,104,416	853,848	1945.....	3,632,499	806,153
1940.....	4,093,043	809,391			

⁶ Includes amortization of defense projects.

TABLE VI.—*Operating revenues, operating expenses, and taxes: Class I line-haul railways, 1935-45*

Year ended Dec. 31—	Operating revenues	Freight revenues	Passenger revenues	Operating expenses	Railway tax accruals ¹			Ratio of total operating expenses to total operating revenues
					U. S. Gov- ernment taxes	Other than U. S. Gov- ernment taxes	Total	
	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Thousands</i>	<i>Percent</i>
1935.....	\$3,451,929	\$2,786,118	\$357,493	\$2,592,741	\$26,795	\$212,646	\$239,441	75.11
1936.....	4,052,734	3,302,894	412,144	2,931,425	94,008	228,384	322,392	72.33
1937.....	4,166,069	3,370,959	442,518	3,119,065	75,992	253,409	329,401	74.87
1938.....	3,565,491	2,852,112	405,598	2,722,199	77,423	265,771	343,194	76.35
1939.....	3,995,004	3,244,445	416,531	2,918,210	121,082	237,363	358,445	73.05
1940.....	4,296,601	3,528,782	416,897	3,089,417	183,546	215,179	398,725	71.90
1941.....	5,346,700	4,443,405	514,633	3,664,232	331,047	224,282	555,329	68.53
1942.....	7,465,823	5,944,344	1,028,186	4,601,083	955,352	248,404	1,203,756	61.63
1943.....	9,054,724	6,782,470	1,652,868	5,657,461	1,583,256	270,880	1,854,136	62.48
1944.....	9,436,790	6,998,606	1,790,305	6,282,063	1,564,118	285,791	1,849,909	66.57
1945.....	8,902,248	6,583,767	1,716,379	7,051,627	551,004	275,571	826,575	79.21

¹ Includes lessor companies.

TABLE VII.—*Number and compensation of employees: Class I line-haul railways, 1935-45*

Year ended Dec. 31—	Average number of employees during year ¹	Total hours paid for	Compensation of railway employees ²			
			Total	Average per hour	Ratio to revenues	Ratio to expenses
		<i>Thousands</i>	<i>Thousands</i>		<i>Percent</i>	<i>Percent</i>
1935.....	994, 371	2, 397, 353	\$1, 643, 879	\$0. 686	47. 62	63. 40
1936.....	1, 065, 624	2, 675, 345	1, 848, 636	. 691	45. 61	63. 06
1937.....	1, 114, 663	2, 799, 539	1, 985, 447	. 709	47. 66	63. 66
1938.....	939, 171	2, 329, 606	1, 746, 141	. 750	48. 97	64. 14
1939.....	987, 675	2, 488, 635	1, 863, 334	. 749	46. 64	63. 85
1940.....	1, 026, 848	2, 615, 905	1, 964, 125	. 751	45. 71	63. 58
1941.....	1, 139, 925	2, 989, 788	2, 331, 650	. 780	43. 61	63. 63
1942.....	1, 270, 687	3, 440, 957	2, 932, 070	. 852	39. 27	63. 73
1943.....	1, 355, 114	3, 816, 420	3, 520, 926	. 923	38. 88	62. 24
1944.....	1, 414, 776	3, 996, 873	3, 857, 957	. 965	40. 88	61. 41
1945.....	1, 419, 505	3, 979, 637	3, 862, 001	. 970	43. 38	54. 77

¹ This is the average of 12 counts made at middle of month and differs from the number of persons receiving pay during the month or year regardless of whether for a long or short period.

² In 1945, \$3,687,892 (thousands) or 95.49 percent of the reported compensation, was chargeable to operating expenses.

TABLE VIII.—*Freight transportation service performed by line-haul railways, 1935-45*

Year ended Dec. 31—	Revenue tons originated	Revenue tons carried 1 mile	Loaded-car miles	Average haul		Average amount received for each ton originated	Revenue per ton-mile
				United States as a system	For the individual road		
	<i>Thousands</i>	<i>Millions</i>	<i>Millions</i>	<i>Miles</i>	<i>Miles</i>		<i>Cents</i>
1935.....	831, 656	283, 637	12, 076	341. 05	188. 77	\$3. 404	0. 998
1936.....	1, 011, 530	341, 182	14, 031	337. 29	188. 94	3. 318	. 984
1937.....	1, 075, 237	362, 815	14, 702	337. 43	188. 14	3. 189	. 945
1938.....	819, 733	291, 866	12, 266	356. 05	196. 87	3. 539	. 994
1939.....	954, 924	335, 375	13, 639	351. 21	193. 91	3. 453	. 983
1940.....	1, 069, 045	375, 369	14, 777	351. 13	192. 75	3. 353	. 955
1941.....	1, 295, 860	477, 576	18, 172	368. 54	198. 59	3. 480	. 944
1942.....	1, 498, 477	640, 992	21, 536	427. 76	217. 55	4. 022	. 940
1943.....	1, 556, 558	730, 132	23, 284	469. 07	231. 23	4. 411	. 940
1944.....	1, 564, 780	740, 586	24, 186	473. 28	234. 62	4. 529	. 957
1945.....	1, 493, 314	684, 148	22, 669	458. 14	230. 21	4. 431	. 967

TABLE IX.—*Carload, trainload, and density of traffic: Class I line-haul railways, 1935-45*

Year ended Dec. 31—	Ton-miles revenue and nonrevenue freight per loaded freight-car mile	Revenue ton-miles per train-mile	Passenger-miles per car-mile	Passenger-miles per train-mile	Revenue ton-miles per mile of road	Passenger-miles per mile of road
1935.....	25. 79	662	11	48	1, 185, 368	78, 116
1936.....	26. 77	703	13	55	1, 432, 154	95, 232
1937.....	27. 07	724	13	59	1, 530, 667	105, 377
1938.....	26. 04	691	12	55	1, 235, 843	93, 544
1939.....	26. 86	743	13	58	1, 427, 115	98, 559
1940.....	27. 59	781	13	61	1, 602, 009	103, 621
1941.....	28. 41	845	15	73	2, 044, 237	128, 413
1942.....	31. 78	968	22	125	2, 760, 479	236, 400
1943.....	33. 29	1, 050	31	190	3, 168, 749	389, 839
1944.....	32. 60	1, 068	32	201	3, 222, 168	425, 012
1945.....	32. 18	1, 058	30	191	2, 979, 597	408, 333

TABLE X.—*Passenger transportation service performed by line-haul railways, 1935-45*

Year ended Dec. 31—	Passen- gers carried	Passen- ger-miles	Average journey per pas- senger ¹	Average receipts per pas- senger	Revenue per passen- ger-mile
	<i>Millions</i>	<i>Millions</i>	<i>Miles</i>		<i>Cents</i>
1935.....	448	18,509	41.31	\$0.800	1.936
1936.....	492	22,460	45.60	.839	1.840
1937.....	500	24,695	49.42	.888	1.796
1938.....	455	21,657	47.65	.894	1.877
1939.....	454	22,713	50.02	.920	1.839
1940.....	456	23,816	52.22	.916	1.755
1941.....	489	29,406	60.18	1.056	1.754
1942.....	672	53,747	79.93	1.533	1.917
1943.....	888	87,925	99.05	1.865	1.883
1944.....	916	95,663	104.46	1.958	1.875
1945.....	897	91,826	102.33	1.916	1.872

¹ This average is affected by the changing ratio of commutation traffic to the total traffic.

TABLE XI.—*Fuel consumed by steam locomotives, and rails and ties laid: Class I line-haul railways, 1935-45*

Year ended Dec. 31—	Bitumi- nous coal	Anthra- cite coal	Fuel oil		Total fuel ¹	Rails ap- plied in- replace- ment and better- ment (all tracks)	Ties laid in previously constructed tracks	
							Cross ties	Switch and bridge ties
	<i>Net tons</i>	<i>Net tons</i>	<i>Thousands of gallons</i>	<i>Equivalent tons</i>	<i>Net tons</i>	<i>Longtons</i>	<i>Number</i>	<i>Feet (b. m.)</i>
1935.....	71,334,736	508,229	1,998,176	12,920,919	84,782,729	1,159,039	44,326,151	156,535,925
1936.....	81,129,740	484,537	2,353,484	15,106,820	96,755,785	1,701,350	47,361,015	167,377,828
1937.....	82,666,673	473,286	2,581,441	16,561,713	99,732,944	1,974,597	47,729,538	159,429,849
1938.....	68,793,756	432,683	2,240,299	14,402,304	83,664,267	1,202,943	41,363,224	141,887,780
1939.....	73,935,025	719,200	2,334,571	15,020,974	89,718,757	1,719,306	45,088,278	147,044,571
1940.....	79,628,318	285,653	2,502,868	16,118,796	96,066,679	1,911,513	43,620,653	145,553,116
1941.....	91,655,061	432,080	3,025,461	19,497,035	111,616,334	2,228,822	47,224,593	144,599,723
1942.....	109,618,324	263,371	3,905,096	25,128,332	135,037,207	2,250,280	48,616,228	136,944,189
1943.....	122,593,389	280,958	4,433,419	28,511,597	151,411,739	2,409,989	45,439,512	124,097,473
1944.....	122,653,989	197,232	4,511,002	29,048,228	151,928,340	2,878,068	48,032,634	137,780,487
1945.....	115,153,596	138,920	4,413,072	28,482,014	143,806,437	2,955,736	43,912,213	130,520,278

¹ In the statement of consumption of fuel by locomotives, 1 cord of hardwood is considered as equivalent to $\frac{3}{4}$ of a ton of fuel and 1 cord of softwood as equivalent to $\frac{1}{2}$ of a ton of fuel. The ratio used in reducing fuel oil to equivalent tons of fuel is left to the experience of each road. Figures include data for cordwood, also a small amount of miscellaneous fuel. Does not include equivalent tons for fuel consumed by motive power units, other than steam locomotives, which in 1945 amounted to 14,853,644.

142 REPORT OF THE INTERSTATE COMMERCE COMMISSION

TABLE XII.—Selected data from annual reports of class I line-haul railways, 1945 and 1944, by districts

Item	All districts		Eastern district	
	Year ended Dec. 31—			
	1945	1944	1945	1944
Railway operating revenues (thousands)	\$8,902,248	\$9,436,790	\$3,355,902	\$3,639,466
Railway operating expenses:				
Total (thousands)	\$7,051,627	\$6,282,063	\$2,836,908	\$2,632,911
Maintenance of way and structures (thousands)	\$1,411,304	\$1,263,292	\$501,045	\$483,462
Maintenance of equipment (thousands)	\$2,147,406	\$1,587,485	\$839,516	\$659,552
Transportation—rail line (thousands)	\$3,015,555	\$2,973,907	\$1,313,948	\$1,315,709
Net railway operating income (thousands)	\$852,147	\$1,106,327	\$288,739	\$384,885
Freight-service statistics:				
Freight revenue (thousands)	\$6,533,767	\$6,998,606	\$2,404,531	\$2,666,022
Revenue tons originated (thousands)	1,424,913	1,491,491	571,235	607,633
Total revenue tons carried (thousands)	2,823,992	3,005,798	1,356,295	1,476,499
Revenue tons carried 1 mile (thousands)	681,000,757	737,246,444	245,507,658	275,843,454
Revenue per ton-mile (cents)	0.959	0.949	0.979	0.966
Revenue ton-miles per mile of road	2,979,597	3,222,168	4,373,902	4,908,995
Freight train-miles (thousands)	652,250	698,761	210,293	234,924
Revenue ton-miles per train-mile	1.058	1.068	1.188	1.194
Loaded car-miles (thousands)	22,575,076	24,087,991	7,731,018	8,574,907
Empty car-miles (thousands)	11,080,455	12,531,812	3,920,421	4,804,135
Ton-miles revenue and nonrevenue freight per loaded car-mile	32.18	32.60	33.47	33.88
Average haul per road (miles)	241.15	245.27	181.01	186.82
Passenger-service statistics:				
Passenger revenue (thousands)	\$1,716,379	\$1,790,305	\$704,242	\$723,801
Passengers carried (thousands)	891,128	910,295	606,960	612,310
Passenger-miles (thousands)	91,717,226	95,549,090	36,366,489	37,522,487
Revenue per passenger-mile (cents)	1.87	1.87	1.94	1.93
Passenger-miles per mile of road	408,333	425,012	678,378	699,003
Average journey per passenger (miles)	102.92	104.96	59.92	61.28
Passenger-miles per train-mile	191	201	190	195

Item	Southern district		Western district	
	Year ended Dec. 31—			
	1945	1944	1945	1944
Railway operating revenues (thousands)	\$1,639,384	\$1,776,623	\$3,906,962	\$4,020,701
Railway operating expenses:				
Total (thousands)	\$1,278,643	\$1,101,086	\$2,936,076	\$2,548,066
Maintenance of way and structures (thousands)	\$256,712	\$215,207	\$653,546	\$564,623
Maintenance of equipment (thousands)	\$428,629	\$299,813	\$879,261	\$628,120
Transportation—rail line (thousands)	\$506,555	\$503,124	\$1,195,052	\$1,155,074
Net railway operating income (thousands)	\$171,031	\$233,683	\$392,377	\$487,759
Freight-service statistics:				
Freight revenue (thousands)	\$1,229,032	\$1,325,844	\$2,900,204	\$3,006,740
Revenue tons originated (thousands)	340,419	355,928	513,259	527,930
Total revenue tons carried (thousands)	586,146	617,771	881,551	911,528
Revenue tons carried 1 mile (thousands)	140,234,828	152,253,225	295,258,271	309,149,765
Revenue per ton-mile (cents)	0.876	0.871	0.982	0.972
Revenue ton-miles per mile of road	3,234,870	3,510,565	2,288,462	2,393,008
Freight train-miles (thousands)	137,699	146,789	304,258	317,048
Revenue ton-miles per train-mile	1.031	1.049	981	984
Loaded car-miles (thousands)	4,244,216	4,511,330	10,599,842	11,001,754
Empty car-miles (thousands)	2,283,402	2,555,714	4,876,632	5,171,963
Ton-miles revenue and nonrevenue freight per loaded car-mile	35.14	35.81	30.05	36.28
Average haul per road (miles)	239.25	246.46	334.93	339.16
Passenger-service statistics:				
Passenger revenue (thousands)	\$314,384	\$352,289	\$697,753	\$714,215
Passengers carried (thousands)	125,133	131,687	159,035	166,298
Passenger-miles (thousands)	15,790,153	17,651,744	39,560,584	40,374,859
Revenue per passenger-mile (cents)	1.99	2.00	1.76	1.77
Passenger-miles per mile of road	364,240	407,004	309,902	316,009
Average journey per passenger (miles)	126.19	134.04	248.75	242.79
Passenger-miles per train-mile	189	204	191	204

B. Statistics From Monthly and Other Periodical Reports of Carriers

TABLE A.—Analysis of operating revenues, expenses, and income, class I steam railways, excluding switching and terminal companies, 1946-45

Item	9 months, January to September, inclusive		Calendar year
	1946	1945	1945
Operating revenues:			
Freight.....	\$4, 202, 946, 973	\$5, 172, 952, 360	\$6, 533, 868, 763
Passenger.....	991, 597, 469	1, 263, 185, 736	1, 716, 378, 492
Mail.....	92, 926, 805	94, 173, 159	129, 571, 450
Express.....	64, 857, 193	112, 962, 294	143, 968, 565
All other.....	269, 645, 423	283, 481, 886	378, 561, 903
Total.....	5, 621, 973, 863	6, 926, 755, 435	8, 902, 349, 173
Percent of total:			
Freight.....	74. 76	74. 68	73. 39
Passenger.....	17. 64	18. 24	19. 28
Mail.....	1. 65	1. 36	1. 46
Express.....	1. 15	1. 63	1. 62
All other.....	4. 80	4. 09	4. 25
Operating expenses:			
Maintenance of way and structures.....	\$865, 881, 855	\$989, 321, 071	\$1, 411, 329, 558
Maintenance of equipment.....	1, 092, 278, 863	1, 317, 848, 746	2, 147, 408, 541
Traffic.....	123, 020, 570	106, 289, 227	144, 135, 401
Transportation.....	2, 362, 401, 708	2, 253, 845, 530	3, 015, 603, 434
General.....	173, 482, 204	154, 867, 625	211, 039, 107
All other.....	96, 152, 645	89, 272, 542	122, 193, 280
Total.....	4, 713, 217, 845	4, 911, 444, 741	7, 051, 709, 321
Percent of total:			
Maintenance of way and structures.....	18. 37	20. 14	20. 01
Maintenance of equipment.....	23. 18	26. 83	30. 45
Traffic.....	2. 61	2. 17	2. 04
Transportation.....	50. 12	45. 89	42. 78
General.....	3. 68	3. 15	2. 99
All other.....	2. 04	1. 82	1. 73
Railway tax accruals.....	\$430, 171, 688	\$1, 101, 012, 822	\$825, 389, 796
Equipment rents—debit.....	83, 952, 671	104, 699, 653	131, 355, 697
Joint facility rents—debit.....	29, 020, 618	31, 451, 497	43, 610, 669
Net railway operating income.....	365, 611, 041	778, 146, 722	850, 283, 690
Other income.....	131, 365, 101	137, 692, 011	204, 985, 753
Interest rents, and other deductions.....	400, 411, 156	444, 674, 309	607, 884, 765
Net income.....	96, 564, 986	471, 164, 424	447, 384, 678

TABLE B.—*Selected operating averages in freight and passenger service of class 1 steam railways in the United States, 1946-45*

Item	8 months, January to August, inclusive		Calendar year
	1946	1945	1945
Average miles of road operated, freight service.....	226,550	227,063	227,008
Average miles of road operated, passenger service.....	161,409	161,470	161,495
Net ton-miles per mile of road per day.....	7,408	9,305	8,763
Percent of freight locomotives unserviceable.....	16.5	13.2	13.7
Percent of freight cars unserviceable.....	4.1	3.2	3.4
Percent of loaded of total car-miles.....	66.5	67.0	67.0
Percent east-bound or north-bound of loaded car-miles.....	57.2	55.4	56.0
Car-miles per car-day.....	41.7	48.8	46.5
Net ton-miles per car-day.....	859	1,058	1,005
Net ton-miles per loaded car-mile.....	31.0	32.4	32.2
Car-miles per train-mile.....	51.7	52.9	52.2
Gross ton-miles per train-mile (excluding locomotives and tenders).....	2,321	2,419	2,386
Net ton-miles per train-mile (including nonrevenue tons).....	1,067	1,147	1,129
Average miles per hour, trains in freight service.....	16.1	15.7	15.7
Pounds of coal per 1,000 gross ton-miles (including locomotives and tenders).....	124	121	123
Average cost of coal per ton (including freight charges).....	\$3.73	\$3.42	\$3.46
Revenue per ton-mile.....	\$0.00971	\$0.00972	\$0.00960
Average haul per revenue ton per railroad.....	227.6	244.3	239.4
Number of freight-train miles.....	387,392,546	453,810,972	652,155,702
Number of passenger-train miles.....	303,807,499	314,964,659	481,478,202
Number of passenger-train car-miles.....	2,920,328,947	3,069,378,120	4,721,520,379
Passenger-train cars per train.....	9.61	9.75	9.81
Revenue per passenger per mile:			
Including commutation passengers.....	\$0.0193	\$0.0188	\$0.0187
Excluding commutation passengers.....	\$0.0200	\$0.0193	\$0.0192

TABLE C.—*Average number of employees and total, compensation, by groups of employees, class 1 steam railways, excluding switching and terminal companies, 1946-45*

Groups of employees	Calendar year 1945		8 months, January to August, inclusive	
	Average number of employees middle of month	Total compensation	Average number of employees middle of month	
			1946	1945
I. Executives, officials, and staff assistants.....	14,940	\$93,655,336	15,039	14,899
II. Professional, clerical and general.....	231,157	586,828,170	226,660	232,361
III. Maintenance of way and structures.....	300,960	607,434,934	264,257	303,757
IV. Maintenance of equipment and stores.....	387,374	1,048,057,697	371,161	389,695
V. Transportation (other than train, engine, and yard).....	170,887	405,451,473	174,885	169,907
VI (a). Transportation (yardmaster, switch tenders, and hostlers).....	18,223	63,745,304	17,262	18,384
VI (b). Transportation (train and engine service).....	296,725	1,054,734,066	284,364	299,873
All employees.....	1,420,266	3,859,906,980	1,353,628	1,428,876

TABLE D.—*Carloads and tons of revenue freight originated and freight revenue, by commodities calendar year 1945, class I steam railways*

Commodity Groups	Number of carloads	Number of tons (2000 pounds)	Freight Revenue
Products of agriculture:			
Wheat.....	772, 099	39, 474, 838	\$164, 357, 622
Corn.....	422, 466	20, 575, 874	94, 196, 829
Flour, wheat.....	356, 712	13, 201, 935	62, 074, 961
Mill products n. o. s.....	529, 158	16, 835, 603	58, 661, 608
Cotton in bales.....	223, 700	3, 931, 327	34, 015, 606
Oranges and grapefruit.....	158, 212	3, 680, 923	75, 833, 627
Potatoes, other than sweet.....	270, 866	5, 606, 837	61, 517, 350
Vegetables, fresh n. o. s.....	199, 857	2, 593, 358	67, 944, 044
All other.....	1, 850, 991	53, 670, 407	366, 512, 210
Total.....	4, 784, 061	159, 571, 102	985, 113, 857
Animals and products:			
Livestock ¹	880, 388	10, 003, 457	88, 369, 238
Fresh meats n. o. s.....	273, 370	4, 142, 243	67, 605, 902
Meats, cured, dried, and smoked.....	61, 338	1, 607, 492	19, 140, 432
Packing-house products (edible) n. o. s. ²	39, 324	926, 453	12, 051, 666
Butter.....	27, 975	529, 834	8, 985, 963
Hides, green.....	32, 343	920, 288	10, 276, 523
All other.....	265, 345	5, 618, 013	73, 012, 893
Total.....	1, 580, 083	23, 747, 780	279, 442, 617
Products of mines:			
Anthracite coal.....	1, 143, 472	65, 787, 978	105, 891, 823
Bituminous coal.....	7, 002, 135	397, 755, 624	873, 882, 618
Coke.....	592, 217	21, 565, 659	44, 696, 252
Iron ore.....	1, 547, 230	94, 244, 524	124, 896, 997
Gravel and sand (other than glass or molding).....	699, 608	40, 383, 723	35, 312, 560
Stone, broken, ground, or crushed.....	384, 416	22, 013, 147	20, 052, 155
All other.....	1, 846, 750	91, 191, 272	281, 950, 595
Total.....	13, 215, 828	732, 941, 927	1, 486, 683, 000
Products of forests:			
Logs.....	394, 806	14, 465, 443	10, 778, 764
Posts, poles, and piling.....	122, 014	3, 474, 387	18, 185, 309
Pulpwood.....	508, 837	20, 155, 019	26, 699, 752
Lumber, shingles, and lath.....	806, 198	27, 045, 499	204, 601, 644
All other.....	369, 145	10, 463, 467	55, 888, 045
Total.....	2, 201, 000	75, 603, 815	316, 153, 514
Manufactures and miscellaneous:			
Petroleum oils, refined, and all other gasoline.....	990, 806	28, 158, 149	210, 452, 636
Fuel, road, and petroleum residual oils, n. o. s.....	502, 167	16, 552, 992	126, 359, 677
Sugar (beet and cane).....	121, 709	5, 097, 537	30, 197, 759
Iron and steel pipe and fittings, n. o. s.....	191, 566	6, 413, 271	71, 506, 597
Iron and steel rated 5th class, n. o. s.; also tin and terneplate.....	1, 062, 636	43, 162, 071	278, 760, 394
Cement, natural and portland (building).....	378, 808	15, 550, 797	44, 442, 752
Automobiles (passenger).....	27, 182	220, 478	10, 573, 942
Automobiles and auto trucks, K. D. and parts n. o. s.....	196, 772	4, 430, 791	61, 188, 315
Beverages.....	271, 341	7, 848, 781	77, 846, 280
Fertilizers, n. o. s.....	446, 082	18, 711, 610	69, 168, 435
Canned food products, n. o. s.....	443, 005	15, 248, 026	149, 320, 454
Scrap iron and steel.....	393, 343	16, 965, 929	43, 244, 218
All other.....	8, 390, 113	233, 855, 103	2, 322, 845, 512
Total.....	13, 415, 530	412, 215, 535	3, 495, 906, 971
Grand total, carload traffic.....	35, 196, 502	1, 404, 080, 159	6, 563, 299, 959
All l. c. l. freight.....		20, 833, 149	385, 958, 188
Grand total, carload and l. c. l. traffic.....		1, 424, 913, 308	6, 949, 258, 147

¹ Horses, mules, ponies, asses, cattle and calves, sheep, goats, and hogs.² Not including canned meats.

TABLE E.—*Summary of casualties to persons on steam railways in the United States for the years ended Dec. 31, 1945, 1944, 1943, 1942, and 1941*

Class of persons	Number of persons									
	Killed					Injured				
	1945	1944	1943	1942	1941	1945	1944	1943	1942	1941
1. Trespassers.....	1, 497	1, 445	1, 667	1, 925	2, 104	1, 003	959	1, 126	1, 348	1, 572
2. Employees:										
Trainmen on duty.....	474	545	505	534	454	21, 392	20, 951	18, 975	14, 323	9, 943
Other employees.....	326	353	376	312	208	3, 323	3, 255	3, 098	2, 112	1, 253
Total employees.....	800	898	881	846	662	24, 715	24, 206	22, 073	16, 435	11, 196
3. Passengers on trains.....	132	239	253	91	34	4, 722	4, 698	5, 031	3, 395	2, 916
4. Travelers not on trains.....	10	10	9	19	5	95	138	113	97	81
5. Persons carried under contract.....	12	8	11	16	8	378	395	411	312	271
6. Other nontrespassers.....	2, 014	1, 928	1, 861	2, 106	2, 070	4, 856	4, 703	4, 814	5, 240	5, 395
Total, train and train-service accidents (1 to 6).....	4, 465	4, 528	4, 682	5, 003	4, 883	35, 769	35, 099	33, 568	26, 827	21, 431
7. Casualties in nontrain accidents.....	226	253	260	230	203	25, 712	26, 128	26, 749	21, 281	16, 380
Total, 1 to 7.....	4, 691	4, 781	4, 942	5, 233	5, 086	61, 481	61, 227	60, 317	48, 108	37, 811
8. Casualties at grade crossings ¹	1, 903	1, 840	1, 732	1, 970	1, 931	4, 446	4, 216	4, 217	4, 616	4, 885
9. Casualties excluded from all totals ² ..	121	127	109	104	105	34	24	31	15	18

¹ Included in total for items 1 to 6, and distributed under various heads, chiefly item 6.² Figures relate to suicides, persons mentally deranged, and persons attempting to escape custody.

TABLE F.—*Revenues, expenses, and income of class I motor carriers¹ of property for the calendar year 1945, compared with those of the same carriers for 1944²*

Item	Total carriers reported	
	1945	1944
<i>Intercity carriers</i>		
Number of carriers represented.....	1,342	1,342
Revenues:		
Freight revenue—Intercity—Common carrier.....	\$657,649,927	\$639,707,601
Freight revenue—Intercity—Contract carrier.....	48,598,729	49,307,776
Freight revenue—Local service.....	10,881,208	10,260,358
Other operating revenue.....	4,262,825	3,837,671
Total operating revenues.....	721,392,689	703,113,406
Expenses:		
Equipment maintenance and garage expense.....	127,151,368	119,421,057
Transportation expense.....	180,927,269	178,916,235
Terminal expense.....	133,986,470	123,209,253
Sales, tariff, and advertising expense.....	18,074,825	17,524,003
Insurance and safety expense.....	41,656,032	39,465,055
Administrative and general expense.....	66,136,018	65,112,078
Total operation and maintenance expenses.....	567,931,982	543,647,681
Depreciation expense.....	27,309,477	25,815,541
Amortization chargeable to operations.....	165,964	166,540
Operating taxes and licenses.....	48,497,295	46,212,825
Operating rents—net.....	76,653,043	70,654,179
Total expenses.....	720,557,761	686,496,766
Operating ratio (percent).....	99.9	97.6
Net operating revenue.....	\$834,928	\$16,616,640
Other income.....	5,212,409	3,965,232
Other deductions.....	4,824,815	4,231,648
Net income before income taxes.....	1,222,522	16,350,224
Net income after income taxes.....	\$2,745,872	8,914,812
<i>Local carriers</i>		
Number of carriers represented.....	427	427
Total operating revenues.....	\$159,194,407	\$154,980,796
Total expenses.....	153,679,009	146,242,171
Operating ratio (percent).....	96.5	94.4
Net operating revenue.....	\$5,515,398	\$8,738,625
Other income.....	8,651,776	9,925,001
Other deductions.....	1,678,514	1,564,801
Net income before income taxes.....	12,488,660	17,098,825
Net income after income taxes.....	6,680,302	9,333,844

¹ Class I motor carriers are those have average gross operating revenues of \$100,000 or over annually, the total annual revenues of which are about half of the grand total for all motor carriers whose rates and services are subject to the jurisdiction of the Interstate Commerce Commission.

² This table does not include the reports of 115 carriers that failed to furnish comparable figures for 1944. The total figures for these 115 carriers amounted to the following for 1945: Operating revenues, \$31,710,801; operation and maintenance expenses, \$25,646,899; other expenses, \$5,190,657; total expenses, \$30,837,556; net operating revenue, \$873,245; net income before income taxes, \$1,760,941; net income after income taxes, \$1,305,657.

³ Deficit.

TABLE G.—Revenues, expenses, and income of class I motor carriers¹ of passengers for the calendar year 1945 compared with those of the same carriers for 1944

Item	Total carriers reported	
	1945	1944
<i>Intercity carriers</i>		
Number of carriers represented.....	250	250
Operating revenues:		
Passenger revenue—Intercity schedules.....	\$389,902,717	\$389,872,746
Passenger revenue—Local and suburban schedules.....	18,691,281	19,905,755
Passenger revenue—Charter or special service.....	6,945,831	6,318,766
Other operating revenue.....	9,641,453	9,194,239
Total operating revenues.....	425,181,282	425,291,506
Operating expenses:		
Equipment maintenance and garage expense.....	68,589,646	60,507,410
Transportation expense.....	90,887,996	86,915,443
Station expense.....	35,353,747	34,077,573
Traffic, solicitation, and advertising expense.....	8,901,773	8,048,829
Insurance and safety expense.....	13,718,684	12,624,605
Administrative and general expense.....	24,663,733	22,316,335
Total operation and maintenance expense.....	242,115,579	224,690,195
Depreciation expense.....	19,041,613	18,192,828
Amortization chargeable to operation.....	122,463	90,334
Operating taxes and licenses.....	30,286,585	29,283,827
Operating rents—net.....	7,489,970	7,751,565
Total expenses.....	299,056,210	280,008,749
Operating ratio (percent).....	70.3	65.8
Net operating revenue.....	\$126,125,072	\$145,282,757
Other income.....	7,648,762	7,126,282
Other deductions.....	6,182,312	6,153,691
Net income before income taxes.....	127,591,522	146,255,348
Net income after income taxes.....	38,561,119	42,018,806
<i>Local carriers</i>		
Number of carriers represented.....	80	80
Total operating revenues.....	\$76,084,558	\$74,275,858
Total expenses.....	62,097,272	57,257,137
Operating ratio (percent).....	81.6	77.1
Net operating revenue.....	\$13,987,286	\$17,018,721
Other income.....	979,664	574,808
Other deductions.....	1,771,258	1,716,170
Net income before income taxes.....	13,195,692	15,877,359
Net income after income taxes.....	5,163,126	5,113,013

¹ Class I motor carriers are those having annual gross operating revenues of \$100,000 or over.

TABLE H.—*Revenues, expenses, and statistics of freight forwarders for the years 1945 and 1944*¹

Item	Total carriers reported	
	1945	1944
Number of forwarders represented.....	51	51
Operating revenues:		
Transportation revenues.....	\$169, 522, 364	\$179, 269, 713
Transportation purchased—dr.:		
Railroad transportation.....	93, 298, 400	98, 767, 328
Motor transportation.....	17, 495, 923	20, 315, 966
Water transportation.....	193, 754	173, 803
Pick-up, delivery, and transfer service.....	20, 382, 924	21, 336, 313
Other transportation purchased.....	1, 022, 093	998, 803
Total transportation purchased.....	132, 393, 094	141, 592, 213
Forwarder revenue from transportation.....	37, 129, 270	37, 677, 500
Incidental revenues.....	557, 585	404, 174
Total operating revenues.....	37, 686, 855	38, 081, 674
Operating expenses:		
Salaries, wages, and expenses of employees.....	23, 116, 861	23, 856, 554
Paid to others for services rendered.....	6, 287, 118	5, 977, 392
Operating rents.....	1, 264, 859	1, 204, 547
Communication and postage.....	1, 592, 559	1, 582, 640
Pay-roll taxes.....	906, 469	990, 068
All other operating expense.....	3, 799, 249	3, 947, 816
Total operating expenses.....	36, 967, 115	37, 559, 017
Income items:		
Revenue from forwarder operations.....	719, 740	522, 657
Transportation tax accruals.....	100, 256	162, 429
Revenues, less taxes, from forwarder operations.....	619, 484	360, 228
Other income.....	269, 989	15, 161
Total income.....	889, 473	375, 389
Miscellaneous deductions from income.....	179, 668	120, 410
Net income before fixed charges and income taxes.....	709, 805	254, 979
Fixed charges:		
Interest on long-term debt.....	4, 306	3, 267
Other fixed charges.....	59, 801	52, 678
Total fixed charges.....	64, 107	55, 945
Net income before provisions for income taxes.....	645, 698	199, 034
Provisions for income taxes.....	413, 070	436, 520
Net income.....	232, 628	² 237, 486
Statistics:		
Tons of freight received from shippers.....	4, 128, 446	4, 604, 356
Number of shipments received from shippers.....	16, 613, 536	18, 529, 197

¹ Confined to forwarders having gross revenues of \$100,000 or more per annum.² Deficit.

TABLE I.—*Selected statistics of private car owners,¹ year 1945*

Item	Refrigerator cars	Tank cars		Other cars ²	Total
		Petroleum	Other		
Cars owned at close of year.....	116, 179	122, 248	10, 840	13, 715	262, 982
Serviceable cars.....	109, 768	117, 866	10, 374	13, 530	251, 538
Unserviceable cars.....	6, 411	4, 382	466	185	11, 444
Miles made by owned cars (thousands):					
Loaded.....	2, 393, 650	1, 849, 007	74, 392	45, 453	4, 362, 502
Empty.....	1, 271, 843	1, 848, 171	75, 308	45, 466	3, 240, 788
Not separable.....	187, 210	139, 354	21, 800	66, 365	414, 729
Total.....	3, 852, 703	3, 836, 532	171, 500	157, 284	8, 018, 019
Revenue receivable, on—(thousands):					
Car mileage basis.....	\$76, 580	\$52, 263	\$2, 644	\$2, 078	\$133, 565
Car rental basis.....	424	2, 299	233	1, 652	4, 608
Other car service basis.....	398	19	111	-----	528
Total.....	77, 402	54, 581	2, 988	3, 730	138, 701

¹ Confined to owners of 10 or more cars. Compiled from reports of 255 owners.² Includes such cars as stock, gondola, hopper, air dump, box, cradle, flat, vat, et cetera.TABLE J.—*Selected financial and operating data of oil pipe-line companies, 1945, 1944, and 1943*

Item	1945	1944	1943
Miles of line operated:			
Gathering lines.....	43, 994	43, 276	42, 471
Trunk lines.....	69, 357	68, 339	66, 312
Investment in carrier property.....	\$1, 042, 522, 828	\$1, 000, 741, 256	\$965, 464, 043
Capital stock ¹	\$253, 782, 318	\$243, 377, 123	\$250, 012, 261
Funded debt unmatured ¹	\$47, 430, 525	\$39, 250, 628	\$47, 053, 923
Accrued depreciation—carrier property.....	\$592, 339, 272	\$549, 229, 607	\$514, 864, 787
Operating revenues.....	\$304, 268, 132	\$310, 194, 453	\$276, 652, 251
Operating expenses.....	\$191, 667, 755	\$172, 367, 510	\$148, 447, 937
Pipe-line taxes:			
U. S. Government taxes.....	\$35, 729, 646	\$60, 794, 752	\$56, 402, 365
Other than U. S. Government taxes.....	\$9, 743, 325	\$9, 192, 475	\$9, 181, 772
Pipe-line operating income.....	\$67, 127, 406	\$67, 839, 716	\$62, 620, 177
Net income.....	\$65, 940, 663	\$65, 715, 492	\$61, 302, 265
Dividend appropriations ¹	\$18, 853, 148	\$22, 018, 752	\$24, 451, 706
Number of barrels of oil received into system.....	2, 379, 243, 526	2, 398, 086, 795	2, 080, 328, 022
Number of barrel-miles (trunk lines):			
Crude oil (thousands).....	429, 942, 740	437, 679, 901	393, 029, 547
Refined oils (thousands).....	65, 360, 294	70, 916, 543	60, 896, 435
Total employees:			
Average number.....	23, 752	23, 497	23, 442
Compensation.....	\$76, 247, 587	\$73, 563, 475	\$64, 661, 570

¹ Excludes data for 15 companies in 1945, 18 companies in 1944, and 17 companies in 1943, as the annual reports filed by these companies relate to pipe-line departments of large oil companies or which are agencies of the Reconstruction Finance Corporation in 1945 or the Defense Supplies Corporation in 1944 and 1943, and these items are not segregated for the pipe-line departments.

TABLE K.—*Revenues and traffic of carriers by water, 1945 and 1944*¹

Item	1945	1944
Freight revenues.....	\$65,126,907	\$72,012,972
Number of tons of revenue freight carried.....	52,852,548	57,625,344
Passenger revenue.....	\$11,993,979	\$12,100,950
Number of revenue passengers carried.....	14,117,540	13,795,012

¹ Compiled from quarterly reports of 96 carriers of classes A and B.TABLE L.—*Selected financial and operating data of electric railways, 1945, 1944, and 1943*

Item	1945	1944	1943
Miles of road operated.....	3,026	3,121	3,234
Investment in road and equipment.....	\$287,209,167	\$291,233,628	\$303,216,334
Capital stock.....	\$117,628,821	\$119,957,582	\$126,209,960
Unmatured funded debt.....	\$64,175,401	\$70,541,738	\$76,301,835
Accrued depreciation—road and equipment.....	\$45,834,913	\$42,817,570	\$43,829,155
Railway operating revenues:			
Freight revenue.....	\$33,648,969	\$36,488,854	\$35,188,327
Passenger revenue.....	\$45,975,367	\$46,766,936	\$42,345,935
All other revenues.....	\$7,749,494	\$7,847,702	\$7,928,092
Total railway operating revenues.....	\$87,373,830	\$91,103,492	\$85,462,354
Total railway operating expenses.....	\$73,697,048	\$69,823,012	\$61,668,969
Taxes assignable to railway operations:			
Other than U. S. Government taxes.....	\$2,484,927	\$2,656,396	\$2,314,421
U. S. Government taxes.....	\$4,103,679	\$8,197,111	\$5,782,087
Operating income.....	\$7,299,184	\$10,575,276	\$15,868,515
Net income.....	\$1,922,917	\$4,326,481	\$8,092,929
Dividends declared.....	\$1,788,529	\$2,088,103	\$2,543,090
Employees:			
Average number.....	16,809	16,646	16,381
Compensation.....	\$40,732,966	\$40,042,967	\$35,226,620

APPENDIX D

AUTHORIZATIONS UNDER VARIOUS SECTIONS OF THE INTERSTATE COMMERCE AND TRANSPORTATION ACTS, AND LOANS UNDER THE RECONSTRUCTION FINANCE CORPORATION ACT

*Certificates of convenience and necessity for construction of lines of railroad under
section 1 (18) of the Interstate Commerce Act, as amended*

Name of applicant	Location of line	Miles
Chicago, R. I. & P. Ry. Co., trustees.....	Washington County, Iowa.....	17.300
Chicago, R. I. & P. Ry. Co., trustees and Choctaw, O. & G. R. Co., trustees.	Hot Springs County, Ark.....	4.500
Georgia, A. S. & C. Ry. Co.....	Mitchell County, Ga.....	0.321
Hampton & B. R. Co.....	Hampton County, S. C.....	12.000
Lakefront D. & R. T. Co.....	Lucas County, Ohio.....	2.650
New Orleans, T. & M. Ry. Co., trustee.....	East Baton Rouge and West Baton Rouge Parishes, La.....	2.120
Norfolk & W. Ry. Co.....	Adams County, Ohio.....	4.600
Pere Marquette Ry. Co.....	Grand Rapids, Mich.....	.093
Smithfield T. Ry. Co.....	Isle of Wight County, Va.....	10.530
West Jersey & S. R. Co., and Pennsylvania- Reading S. L.	Atlantic County, N. J.....	3.250
Total number of miles.....		47,364

1 And to operate car ferry 12.3 nautical miles across the James River.

	<i>Miles</i>
20 applications filed involving.....	159.448
10 certificates issued authorizing construction of.....	47.364
2 applications denied involving.....	3.254
3 applications dismissed involving.....	14.300
Authorized since effective date of act.....	10,460
Portion thereof actually constructed.....	7,440
Portion thereof deferred or abandoned.....	2,879
Portion in which time for construction has not expired.....	141

*Certificates of convenience and necessity for abandonment of lines of railroad or the
operation thereof, issued under section 1 (18) of the Interstate Commerce Act, as
amended*

Name of applicant	Location of line	Miles
Alabama Power Co.....	Tuscaloosa County, Ala.....	6.720
Athlison, T. & S. F. Ry. Co.....	Orange County, Calif.....	3.670
Bay Point & C. R. Co.....	Contra Costa County, Calif.....	9.000
California, S. & E. Ry. Co.....	Shasta County, Calif.....	15.300
Central R. Co. of New Jersey trustees.....	Monmouth County, N. J.....	6.380
Chateaugay & L. P. Ry. Co. and Delaware & H. R. Corp.	Clinton, Franklin, and Essex Counties, N. Y.....	51.120
Chicago, A. & S. R., agent, and Dulien Steel Products, Inc.	Newton, Benton, Warren, and Fountain Counties, Ind.....	62.100
Chicago, R. I. & P. Ry. Co. trustees.....	Washington County, Iowa.....	12.500
Denver & R. G. W. R. Co. trustees.....	Gunnison County, Colo.....	2.090
Do.....	Salt Lake and Summit Counties, Utah.....	26.650
Des Moines & Central Iowa R.....	Dallas County, Iowa.....	3.110
Do.....	Polk and Jasper Counties, Iowa.....	18.770
Erie R. Co.....	Tioga County, Pa.....	13.205
Evansville & O. V. Ry. Co., Inc.....	Spencer and Warrick Counties, Ind.....	13.000
Flint River & N. E. R. Co.....	Mitchell and Colquitt Counties, Ga.....	23.000
Fordyce & P. R. Co.....	Dallas County, Ark.....	5.887

Certificates of convenience and necessity for abandonment of lines of railroad or the operation thereof, issued under section 1 (18) of the Interstate Commerce Act, as amended—Continued

Name of applicant	Location of line	Miles
Grand Trunk W. R. Co.....	Montcalm, Kent, Ottawa, and Muskegon Counties, Mich.....	49.080
Hawaii C. Ry., Ltd.....	Hawaii County, Hawaii.....	81.000
Lackawanna & W. V. R. Co.....	Lackawanna County, Pa.....	4.356
Louisville & N. R. Co.....	Jefferson and Blount Counties, Ala.....	7.250
Do.....	Jefferson County, Ala.....	1.340
Marinette, T. & W. R. Co.....	Lincoln County, Wis.....	9.400
Mississippi Cent. R. Co.....	Forrest County, Miss.....	7.000
Nashville, C. & St. L. Ry.....	Marshall and Maury Counties, Tenn.....	18.260
New Orleans, T. & M. Ry. Co. trustee.....	East Baton Rouge and West Baton Rouge Parishes, La.....	1.380
New York Central R. Co.....	Herkimer County, N. Y.....	2.400
New York, N. H. & H. R. Co. trustees.....	Bronx and New York Counties, N. Y.....	8.000
Norfolk & W. Ry. Co.....	Giles and Bland Counties, Va.....	29.690
Pacific Electric Ry. Co.....	Los Angeles County, Calif.....	7.604
St. Louis S. W. Ry. Co. trustee.....	Poinsett and Cross Counties, Ark.....	31.120
Sacramento N. Ry.....	Butte County, Calif.....	1.220
Do.....	Yolo County, Calif.....	.210
Salt Lake & Utah R. Corp.....	Salt Lake and Utah Counties, Utah.....	75.160
Sioux City Terminal Ry. Co.....	Silver Bow County, Mont.....	(1)
Southern Pac. R. Co., and Southern Pac. Co.....	Los Angeles County, Calif.....	1.461
Sumpter V. Ry. Co.....	Baker and Grant Counties, Ore.....	57.000
Union Pac. R. Co.....	Larimer County, Colo.....	2.350
Youghiogheny N. Ry. Co., Pittsburgh, McKeesport & Y. R. Co., and Pittsburgh & L. E. R. Co.....	Fayette County, Pa.....	2.008
Total number of miles.....		669.791

1 Livestock loading and unloading facilities.

	<i>Miles</i>
60 applications filed involving.....	1,747.237
37 certificates issued permitting abandonment of.....	669.791
6 applications denied involving.....	273.087
4 applications dismissed involving.....	117.900
Abandonments permitted since effective date of act.....	32,117

Certificates of convenience and necessity for acquisition and/or operation of lines of railroads issued under section 1 (18) of the Interstate Commerce Act, as amended

Name of applicant	Location of line	Miles
Alexander R. Co.....	Iredell and Alexander Counties, N. C.....	18.500
Atlantic Coast Line R. Co.....	Pasco and Pinellas Counties, Fla.....	2.020
Atlantic Coast Line R. Co., and Seaboard Air Line R. Co.....	do.....	.480
Bamberger R. Co.....	Salt Lake County, Utah.....	.750
Denver & R. G. W. R. Co. trustees.....	Utah County, Utah.....	8.400
Kenosha M. C. L. Inc.....	Milwaukee and Ozaukee Counties, Wis.....	23.763
New Orleans, T. & M. Ry. Co., trustee.....	East Baton Rouge and West Baton Rouge Parishes, La.....	3.470
New York Central R. Co.....	Essex and Franklin Counties, N. Y.....	10.100
Northern Pac. Ry. Co.....	Kitsap and Mason Counties, Wash.....	48.000
Port of Palm Beach District.....	Palm Beach County, Fla.....	2.150
Seaboard Air Line R. Co.....	Pasco and Pinellas Counties, Fla.....	3.350
Total number of miles.....		120.983

	<i>Miles</i>
8 applications filed involving.....	81.523
11 certificates issued involving.....	120.983

154 REPORT OF THE INTERSTATE COMMERCE COMMISSION

Authorizations under section 5 (2) of the Interstate Commerce Act, as amended, involving railroad properties

Acquiring carrier	Owning carrier	Miles	How acquired
Alabama G. S. R. Co.....	Belt Ry. Co. of Chattanooga, Tenn.	3. 410	Purchase.
Allen, Charles, Jr. ¹	Litchfield & M. Ry. Co.....	44. 360	Ownership of stock.
Atlantic Coast Line R. Co., and Atlantic Coast Line Co. ²	Atlanta, B. & C. R. Co.....	637. 000	Purchase.
Baltimore & O. R. Co.....	New York Central R. Co.....	57. 000	Trackage rights.
Baltimore & O. R. Co. and New York Central R. Co.	Lakefront D. & R. T. Co. and Toledo T. R. Co.	2. 650	Ownership of stock, joint lease and trackage rights and modified leases.
Beaumont, S. L. & W. Ry. Co. trustee.	Houston N. S. Ry. Co. trustee.	26. 000	Modified lease.
Boston & M. R.....	Troy & B. R. Co.....	5. 040	Ownership of stock and purchase.
Do.....	St. Johnsbury & L. C. R.....	118. 300	Ownership of stock.
Boston & M. R., Canadian Pac. Ry. Co., and Newport & R. R. Co.	Connecticut & P. R. R. Co.....	109. 400	Purchase, ownership of stock and lease.
Bowdon R. & T. Co.....	Bowdon Ry. Co.....	12. 060	Purchase.
Caton & Loudon Ry. Co.....	Catonsville S. L. R. Co.....	4. 000	Do.
Central R. Co. of Pennsylvania	Central R. Co. of New Jersey trustees, lessees of Lehigh C. & N. Co., et al.	225. 460	Sublease and purchase.
Chicago & N. W. Ry. Co.....	Escanaba, I. M. & W. R. Co.....	50. 330	Merger.
Do.....	Peoria & P. U. Ry. Co.....	9. 320	Joint use.
Chicago, B. & Q. R. Co.....	Missouri & I. B. & B. R. Co.....	2. 670	Ownership of stock.
Delaware, L. & W. R. Co.....	Warren R. Co.....	18. 820	Merger.
Do.....	Syracuse, B. & N. Y. R. Co., Sussex R. Co., Erie & C. N. Y. R. Co., Passaic & D. R. Co., Chester R. Co., Newark & B. R. Co., and New York, L. & W. Ry. Co. (of Pa.).	148. 980	Do.
Do.....	Morris & E. E. R. Co.....	1, 920	Ownership of stock.
Do.....	Hoboken F. Co.....	(³)	Ownership of stock and lease.
Erie R. Co.....	Cleveland & P. R. Co.....	2. 500	Purchase.
Do.....	Paterson & R. R. Co. and Union R. Co.	38. 830	Purchase and merger.
Erie R. Co. and Lehigh V. R. Co.	Buffalo Creek R. Co.....	-----	Modified lease.
Fort Worth & D. C. Ry. Co....	Dallas T. Ry. & U. D. Co. and St. Louis S. W. Ry. Co. trustee.	-----	Joint use.
Gulf, M. & O. R. Co.....	Terminal R. A. of St. L.....	. 800	Trackage rights.
Do.....	Gulf T. Co.....	1. 725	Purchase.
Holloway, H. H. ¹	Louisiana M. Ry. Co.....	-----	Ownership of stock.
Illinois Central R. Co.....	Mississippi V. Co., Gulf & S. I. R. Co., Yazoo & M. V. R. Co., Baton Rouge, H. & E. R. Co., Louisville, N. O. & T. Ry. Co. in Ark., Alabama & V. Ry. Co., Vicksburg, S. & Pac. Ry. Co., Vicksburg B. & T. Co., Meridian T. Co., and Kansas City, S. & G. T. Co.	1, 782. 400	Purchase, lease, joint control and use, and trackage rights.
Do.....	Dubuque & S. C. R. Co., and Omaha B. & T. Ry. Co.	733. 790	Purchase.
Do.....	Bloomington S. R. Co., Benton S. R. Co., Blue I. R. Co., Dunleith & D. B. Co., Fredonia & R. R. Co., Goldconda N. Ry., Herrin N. R. Co., Kensington & E. R. Co., and St. Louis B. & S. Ry. Co.	53. 420	Purchase and ownership of stock.
Do.....	Louisville, N. O. & T. Ry. Co. of Ark., Meridian, B. & N. R. Co., and Baton Rouge, H. & E. R. Co.	49. 900	Do.
Jersey City S. Y., Inc.....	United N. J. R. & C. Co., and Pennsylvania R. Co.	(⁴)	Lease.
Lehigh & N. E. R. Co.....	Central R. Co. of New Jersey trustees.	4. 000	Trackage rights.
Louisiana M. Ry. Co.....	Louisiana & A. Ry. Co., and Missouri Pac. R. Co.	76. 340	Purchase, lease, and trackage rights.
Maine Central R. Co.....	Passamaquoddy F. & N. Co.	3. 000	Indirect control.
Do.....	Portland & R. F. R., and Portland & R. F. Ry.	61. 950	Purchase.

See footnotes at end of table.

Authorizations under section 5 (2) of the Interstate Commerce Act, as amended, involving railroad properties—Continued

Acquiring carrier	Owning carrier	Miles	How acquired
Missouri Pac. R. Co., trustee, St. Louis S. W. Ry. Co., trustee, and Chicago, R. I. & P. Ry. Co. trustees.	Arkansas & M. Ry. B. & T. Co.	-----	Joint use.
New York Central R. Co., Chesapeake & O. Ry. Co., and Alleghany Corp. ¹	Nicholas, F. & G. R. Co.-----	4,760	Joint lease and control.
Nezperce R. Co.-----	Nezperce & I. R. Co.-----	14,800	Purchase.
Pacific Electric Ry. Co.-----	Southern Pac. R. Co.-----	15,853	Do.
Pennsylvania R. Co.-----	Wheeling & L. E. Ry.-----	9,640	Trackage rights.
Do-----	Jersey City S. Y., Inc.-----	(4)	Ownership of stock.
Pennsylvania, O. & D. R. Co. and Pennsylvania R. Co.	New York, C. & St. L. R. Co.-----	.228	Trackage rights.
Peoria & E. Ry. Co.-----	Peoria & P. U. Ry. Co.-----	28,760	Joint use.
Pere Marquette Ry. Co.-----	Pennsylvania R. Co.-----	2,500	Trackage rights.
Pittsburg C. Ry. Corp.-----	Pittsburg Ry. Co.-----	18,440	Purchase.
Purchaser Ry. Corp.-----	Illinois Terminal R. Co.-----	485,920	Do.
Reading Co.-----	Allentown R. Co., Colebrookdale R. Co., Gettysburg & H. Ry. Co., North East P. R. Co., Peoples Ry. Co., Perkiomen R. Co., Philadelphia & C. V. R. Co., Philadelphia, N. & N. Y. R. Co., Pickering V. R. Co., Reading & C. R. Co., and and Stony C. R. Co.	238,040	Merger.
St. Louis, S. F. & T. Ry.-----	Texas & N. O. R. Co. and Fort Worth U. P. S. Co.	1,349	Trackage rights.
Saratoga & S. R. Corp. and S. M. Pinsky. ¹	Boston & M. R.-----	25,100	Purchase and ownership of of stock.
Seaboard Air Line R. Co.-----	Tampa N. R. Co., Brooksville & I. Ry., Charlotte H. & N. Ry. Co., and Prince George & C. Ry.	184,000	Modified leases.
Do-----	Seaboard A. L. Ry. Co. receivers, Baltimore S. P. Co.	3,758,000	Purchase, lease, joint control.
Henry P. Anderson et al.-----	do-----	-----	Voting trustees.
Southern Ry. Co.-----	Atlanta & C. A. L. Ry Co.-----	254,110	Ownership of stock.
Toledo & E. R. Co.-----	Ohio P. S. Co.-----	10,800	Purchase.
Wabash R. Co.-----	Kansas City, S. Ry. Co., Chicago, M. St. P. & P. R. Co., and Chicago R. I. & P. Ry. Co.	5,210	Trackage rights.
Wyandotte Terminal R. Co.-----	Detroit, T. & I. R. Co.-----	2,500	Do.

¹ Individual controlling another carrier.

² Holding company.

³ Ferry service between Hoboken, N. J. and New York, N. Y.

⁴ Livestock loading and unloading facilities.

48 applications filed.

56 authorizations granted.

1 application denied.

3 applications dismissed in whole or in part.

Authorizations issued under section 5 (2) of the Interstate Commerce Act, as amended, involving water carriers

Acquiring carrier	Owning carrier	Service	How acquired
Bernert, Albert, et al.-----	Shepard T. Co.-----	Columbia River-----	Purchase.
Cleveland & B. S. Co.-----	Wisconsin & M. S. Co.-----	Lake Michigan-----	Lease.
Detroit & C. N. Co.-----	Nicholson U. S. S. Co. and Overlakes F. Corp.	do-----	Purchase.
Knappton Towboat Co.-----	Willamette R. T. Co.-----	Willamette River-----	Do.
Mississippi V. B. L. Co.-----	Campbell T. Co.-----	Ohio and Mississippi Rivers.	Modified lease.
Oliver J. Olson & Co. et al.-----	Philips S. Co.-----	Puget Sound, Columbia River, and Pacific coastwise.	Ownership of stock.
Saginaw D. & T. Co., and Oglebay, Norton & Co. ¹	Saginaw D. & T. Co. (1936).	Great Lakes and St. Lawrence.	Purchase and indirect control.
Thomas J. McGuire et al.-----	Wisconsin & M. S. Co.-----	Lake Michigan-----	Lease.

¹ Holding company.

7 applications filed.

8 authorizations granted.

Authorization of the issuance of securities and the assumption of obligations and liabilities in respect of the securities of others under section 20a of the Interstate Commerce Act, as amended

Stock, common:

For acquisition of property including equipment.....	\$2, 901, 000. 00
For acquisition of property and for general corporate purposes.....	10, 000. 00
For acquisition of property excluding equipment.....	1, 500, 000. 00
For exchange for common stock.....	{ 500, 000. 00 1 1, 282, 427
For general corporate purposes (not segregated).....	810, 300. 00
For payment of advances.....	10, 000. 00
For reorganization.....	{ 8, 592, 845. 00 1 4, 358, 193
Assumption of obligation and liability in respect of \$468,300.	

Total.....	{ 14, 324, 145. 00 1 5, 640, 620
------------	-------------------------------------

Stock, preferred:

For exchange for preferred stock.....	500, 000. 00
For exchange for and in redemption of preferred stock..	6, 378, 400. 00
For reorganization.....	127, 174, 000. 00

Total.....	134, 052. 400. 00
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Total stock.....	{ 148, 376, 545. 00 1 5, 640, 620
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Bonds, debenture:

For sale to meet unmatured funded debt.....	44, 493, 000. 00
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Bonds, income-mortgage:

For reorganization.....	184, 206, 996. 00
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Bonds, mortgage:

For acquisition of property other than equipment.....	1, 613, 900. 00
For additions and betterments other than equipment....	176, 000. 00
For exchange for bonds outstanding.....	49, 443, 000. 00
For exchange for bonds previously authorized.....	14, 500, 000. 00
For extension of matured funded debt.....	12, 325, 000. 00
For payment of advances.....	645, 000. 00
For pledge.....	73, 275, 200. 00
For reimbursement of treasury for capital expenditures not capitalized.....	526, 000. 00
For reorganization.....	109, 225, 100. 00
For retention in treasury subject to further order.....	200, 000. 00
For sale to meet matured funded debt.....	2, 720, 000. 00
For sale to meet unmatured funded debt.....	663, 391, 000. 00
Assumption of obligation and liability in respect of \$318,334,133.33.	

Total.....	928, 040, 200. 00
------------	-------------------

Total bonds.....	1, 156, 740, 196. 00
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Notes, secured:

For acquisition of equipment.....	241, 860. 00
For refunding purposes.....	5, 130, 000. 00
For sale to meet unmatured funded debt.....	44, 000, 000. 00

Total.....	49, 371, 860. 00
------------	------------------

¹ Shares of stock without par or nominal value.

Authorization of the issuance of securities and the assumption of obligations and liabilities in respect of the securities of others under section 20a of the Interstate Commerce Act, as amended—Continued

Notes, unsecured:	
For acquisition of equipment.....	\$7, 960, 931. 76
For exchange for notes previously issued.....	15, 000. 00
For general corporate purposes (not segregated).....	50, 000. 00
For sale to meet unmatured funded debt.....	10, 238, 000. 00
For sale to meet unmatured funded debt and for additions and betterments.....	2, 000, 000. 00
Assumption of obligation and liability in respect of \$280,000.	
Total.....	20, 263, 931. 76
Total notes.....	69, 635, 791. 76
Equipment obligations:	
Assumed by carriers.....	77, 882, 000. 00
Assumption of obligation and liability in respect of \$34,793,000.	
Certificates of deposit:	
For exchange for common stock.....	1, 613, 900. 00
Certificates, receivers:	
For exchange for receivers' certificates previously issued.....	11, 000. 00
Certificates, trustees:	
For extension of matured unfunded debt.....	900, 000. 00
For general purposes (not segregated).....	288, 654. 79
Total.....	1, 188, 654. 79
Total certificates.....	1, 199, 654. 79
Notes, receivers:	
For general purposes (not segregated).....	6, 000. 00
Notes, trustees:	
For acquisition of equipment.....	6, 549, 988. 93
Total notes.....	6, 555, 988. 93
Grand total securities.....	{ 1, 462, 004, 076. 48 15, 640, 620
112 applications filed.	
97 applications approved.	
1 application dismissed.	

¹ Shares of stock without par or nominal value.

Authorization of the issuance of securities and the assumption of obligations and liabilities in respect of the securities of others under section 214 of the Interstate Commerce Act, as amended

Stock, common:

For acquisition of common stock.....	\$117,000. 00
For acquisition of equipment and for construction.....	169,600. 00
For acquisition of equipment and for general corporate purposes.....	551,200. 00
For acquisition of property including equipment.....	75,000. 00
For exchange for common stock.....	¹ 25,000
For exchange for common stock previously issued.....	140,000. 00
For stock dividend.....	¹ 7,900

Total.....	{ 1,052,800. 00
	¹ 32,900

Stock, preferred:

For exchange for common stock.....	1,200,000. 00
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Total stock.....	{ 2,252,800. 00
	¹ 32,900

Notes, secured:

For acquisition of common stock.....	300,000. 00
For acquisition of equipment.....	664,000. 00
For acquisition of equipment and for general corporate purposes.....	875,000. 00
For acquisition of property including equipment.....	647,427. 00
For refunding purposes.....	377,000. 00

Total.....	2,853,427. 00
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Notes, unsecured:

For acquisition of equipment.....	1,150,000. 00
For acquisition of equipment and for general corporate purposes.....	400,000. 00

Total.....	1,550,000. 00
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Total notes.....	4,413,427. 00
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Grand total securities.....	{ 6,666,227. 00
	¹ 32,900

25 applications filed.

14 applications approved.

2 applications dismissed.

1 application denied.

¹ Shares of stock without par or nominal value.

Bond issues sold at competitive bidding,¹ authorized under section 20a of the Interstate Commerce Act, as amended, from Nov. 1, 1945, to Oct. 31, 1946

Name of company description of issue	Year due	Principal amount	Coupon rate	Date bids opened	Number of bids	Price to company	Interest cost (percent)	Price to public	Gross spread
Chicago, Burlington & Quincy Railroad Co., first and refunding mortgage bonds	1985	\$65,000,000	3½	Oct. 26, 1945	2	100.0399	3.12	100.56	0.5201
Buffalo Creek Railroad Co., first-mortgage bonds, series B	1995	2,850,000	3	Oct. 17, 1945	3	99.511	3.02	(²)	(²)
Kansas City Southern Ry. Co., first-mortgage 30-year bonds, series A	1975	40,000,000	4	Oct. 17, 1945	1	98.25	4.10	100.00	1.75
Chicago, Burlington & Quincy Railroad Co., first and refunding mortgage bonds	1970	49,765,000	2½	Dec. 12, 1945	2	100.13999	2.87	100.80	.66001
Southern Pacific Railroad Co., first-mortgage bonds, series E	1986	50,000,000	2½	Feb. 4, 1946	2	100.6599	2.85	101.50	.8401
Union Pacific Railroad Co., 30-year debenture bonds	1976	44,493,000	2½	Feb. 6, 1946	2	107.789	2.50	108.50	.711
Southern Pacific Railroad Co., first-mortgage bonds, series E	1996	50,000,000	2½	Feb. 18, 1946	2	99.52	2.77	100.00	.48
Union Pacific Railroad Co., first-mortgage bonds, series C	1991	81,602,000	2½	Mar. 13, 1946	2	101.27	2.45	102.19	.92
Detroit, Toledo & Ironton Railroad Co., first-mortgage bonds, series B	1976	9,628,000	2½	Mar. 19, 1946	4	100.325	2.73	101.00	.675
Great Northern Railway Co.:									
General-mortgage bonds, series P	1982	40,000,000	2¾	Mar. 20, 1946	2	98.071	2.75	101.14	.787
General-mortgage bonds, series Q	2010	35,000,000	2½	Mar. 20, 1946	2	98.319	2.38	98.75	.435
Southern Pacific Railroad Co., first-mortgage bonds, Series G	1961	25,000,000	2¼	Mar. 25, 1946	2	99.279	2.31	100.00	.921
Great Northern Railway Co., general-mortgage bonds, series R	1961	25,000,000	2¼	Apr. 2, 1946	3	100.023	1.95	100.676	.065
Pennsylvania Co., secured serial notes	1957-66	30,000,000	1.00 to 2.15	-----					
New York, Chicago & St. Louis Railroad Co., refunding-mortgage bonds, series F	1986	41,500,000	3	Apr. 16, 1946	2	101.529	2.94	102.36	.731
Nashville, Chattanooga & St. Louis Railway, first-mortgage bonds, series B	1986	15,000,000	3	May 9, 1946	3	99.319	3.03	100.00	.681
Texas & New Orleans Railroad Co., first and refunding mortgage bonds:									
Series B	1970	15,000,000	3¼	May 6, 1946	1	98.5	3.44	{ 100.00	1.50
Series C	1990	45,000,000	3¾	(³)		98.25			
Series D	1990	20,000,000	3¾	(³)		98.25			
Indianapolis Union Railway Co., refunding and improvement mortgage bonds, series C	1986	6,500,000	2½	June 11, 1946	4	98.31	2.57	98.75	.44
Union Railroad Co., first and refunding mortgage bonds, series A	1996	7,900,000	3	Aug. 20, 1946	3	98.00	3	(²)	(²)
Duluth, Missabe & Iron Range Railway Co., first-mortgage serial bonds	1947-62	19,200,000	1.15 to 2.50	Oct. 15, 1946	2	99.5	2.295	100.00	.5

¹ Includes notes issued.

² No public offering.

³ Series D bonds not offered for competitive bidding, but purchased by Southern Pacific Co. on same terms as series C.

Status of outstanding loans under section 210 of the Transportation Act, 1920,
as amended

PRINCIPAL AND INTEREST IN DEFAULT ON OCTOBER 1, 1946

Carrier	Principal	Interest
Des Moines & C. I. R.....	\$633,500.00	\$634,671.34
Georgia & F. Ry. Co., receiver.....	792,000.00	736,560.00
Seaboard Air Line Ry. Co.....	¹ 21,126,995.00	-----
Seaboard B.-L. Co.....	¹ 167,948.00	-----
Waterloo, C. F. & N. Ry. Co.....	1,260,000.00	1,724,055.71
Total in default.....	2,685,500.00 _m	3,095,287.05

¹ Represents securities received or to be received in reorganization proceedings.

APPENDIX E

RAILROAD COMPANIES IN REORGANIZATION (OR RECEIVERSHIP) PROCEEDINGS

	<i>Mileage operated 1945</i>
Proceedings under section 77 (chapter VII):	
Alton Railroad Company.....	959
Boston & Providence Railroad Corporation ¹	
Boston Terminal Company ²	
Central of Georgia Railway Company.....	1, 816
Central Railroad Company of New Jersey.....	648
Chicago, Rock Island and Pacific Railway Company.....	7, 752
Denver & Rio Grande Western Railroad Company.....	2, 385
Duluth, South Shore and Atlantic Railway Company.....	530
Florida East Coast Railway Company.....	682
Georgia, Florida & Alabama Railroad Company ³	
Hoboken Manufacturers' Railroad Company.....	9
Meridian and Bigbee River Railway Company.....	50
Middletown & Unionville Railroad Company.....	14
Missouri Pacific Railroad Company.....	9, 926
New Jersey & New York Railroad Company.....	39
New York, New Haven & Hartford Railroad Company.....	1, 838
New York, Ontario & Western Railway Company.....	547
New York, Susquehanna & Western Railroad Company.....	120
Pittsburg, Shawmut and Northern Railroad Company.....	191
Rutland Railroad Company.....	407
St. Johnsbury & Lake Champlain Railway Company, The.....	96
St. Louis-San Francisco Railway Company.....	4, 645
St. Louis Southwestern Railway Company.....	1, 607
Wisconsin Central Railway Company ⁴	
Receivership proceedings (steam railroads):	
Georgia & Florida Railroad.....	408
Murfreesboro-Nashville Railway Company.....	15
Rio Grande Southern Railroad Company ⁵	172
Tallulah Falls Railway Company ⁶	57
Waco, Beaumont, Trinity & Sabine Railway Company.....	42
Yreka Western Railroad Company.....	8
Receivership proceedings (electric railroads):	
Bellaire-Southwestern Traction Company ⁷	
Salt Lake Terminal Company.....	4.20

¹ Owned mileage 61. Leased to Old Colony Railroad Company; operated by New York, New Haven & Hartford Railroad Co.

² Owned mileage 13.

³ Owned mileage 133. Leased to Seaboard Air Line Railway Co.

⁴ Owned mileage 898. Operated by Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.

⁵ Controlled by Denver & Rio Grande Western Railroad Co.

⁶ Controlled by Southern Railway Co.

⁷ Mileage owned 2.13, Operated by Co-Operative Transit Co.

APPENDIX F

STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 1946

An Act making appropriations for the Executive Office and sundry independent * * * Commissions * * * for the fiscal year ending June 30, 1946, and for other purposes, approved May 3, 1945:

For eleven Commissioners, secretary, and for all other authorized expenditures necessary in the execution of laws to regulate commerce, including 1 chief counsel, 1 director of finance, and 1 director of traffic at \$10,000 each per annum, traveling expenses, et cetera:

General	\$2, 769, 400	
First Deficiency Appropriation Act 1945	266, 000	
Joint Resolution 342, Public Law 349	380, 000	
		\$3, 415, 400

To enable the Interstate Commerce Commission to enforce compliance with section 20 and other sections of the Interstate Commerce Act as amended by the act approved June 29, 1906, the Transportation Act, 1920 (49 U. S. C. 20), and the Transportation Act of 1940, including the employment of necessary special accounting agents or examiners, traveling expenses, et cetera:

Accounts		400, 000
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To enable the Interstate Commerce Commission to keep informed regarding and to enforce compliance with acts to promote safety of employees and travelers upon railroads and the act requiring common carriers to make reports of accidents and authorizing investigations thereof; and to enable the Interstate Commerce Commission to investigate and test appliances intended to promote the safety of railway operation, as authorized by the joint resolution approved June 30, 1906 (45 U. S. C. 35), and the provision of the Sundry Civil Act approved May 27, 1908 (45 U. S. C. 36, 37), to investigate, test experimentally, and report on the use and need of any appliances or systems intended to promote the safety of railway operation, inspectors, and for traveling expenses:

Safety of employees	550, 000	
Joint Resolution 342, Public Law 349	42, 000	
		592, 000

For all authorized expenditures under section 25 of the Interstate Commerce Act, as amended by the Transportation Act, 1920, the act of August 26, 1937 (49 U. S. C. 26) and the Transportation Act of 1940, with respect to the provision thereof under which carriers by railroad subject to the act may be required to install automatic train-stop or train-control devices which comply with specifications and requirements prescribed by the Commission, including investigations and tests pertaining to block-signal and train-control systems, as authorized by the joint resolution approved June 30, 1906 (45 U. S. C. 35), and including the employment of the necessary engineers, and for traveling expenses:

Signal and train-control devices	178, 000	
Joint Resolution 342, Public Law 349	9, 800	
		187, 800

For all authorized expenditures under the provisions of the act of February 17, 1911, entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto" (45 U. S. C. 22), as amended by the act of March 4, 1915 extending "the same powers and duties with respect to all parts and appurtenances of the locomotive and tender" (45 U. S. C. 30), and amendment of June 7, 1924 (45 U. S. C. 27), providing for the appointment from time to time, by the Interstate Commerce Commission of not more than 15 inspectors in addition to the number authorized in the first paragraph of section 4, of the act of 1911 (45 U. S. C. 26), and the amendment of June 27, 1930 (45 U. S. C. 24, 26), including such legal, technical, stenographic, and clerical help as the business of the offices of the director of locomotive inspection and his 2 assistants may require, and for traveling expenses:

Locomotive inspection.....	\$500, 000	
Joint Resolution 342, Public Law 349.....	43, 600	
To enable the Interstate Commerce Commission to carry out the objects of the act entitled "An Act to amend an Act entitled 'An Act to regulate commerce', approved February 4, 1887, and all Acts amendatory thereof, by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities," approved March 1, 1913, as amended by the act of June 7, 1922 (49 U. S. C. 19a), and by the "Emergency Railroad Transportation Act, 1933" (49 U. S. C. 19a), including traveling expenses:		\$543, 600
Valuation.....	388, 319	
First Deficiency Appropriation Act 1945.....	50, 000	
Joint Resolution 342, Public Law 349.....	56, 000	
		494, 319

For all authorized expenditures necessary to enable the Interstate Commerce Commission to carry out the provisions of part II of the Interstate Commerce Act and section 5, part 1, of the Interstate Commerce Act insofar as applicable to common carriers subject to part II (Transportation Act of 1940), including one director at \$10,000 per annum and other personal services in the District of Columbia and elsewhere; traveling expenses; supplies; services and equipment; not to exceed \$1,000 for purchase and exchange of books, reports, newspapers, and periodicals; contract stenographic reporting services; maintenance, repair, and operation of motor-propelled passenger-carrying vehicles; not to exceed \$5,000 for the purchase of evidence in connection with investigations of apparent violations of said act: * * * Provided, that joint board members may use Government transportation requests when traveling in connection with their duties as joint board members:

Motor transport regulation.....	2, 502, 619	
First Deficiency Appropriation Act 1945.....	82, 000	
Joint Resolution 342, Public Law 349.....	341, 000	
		2, 925, 619

For all printing and binding for the Interstate Commerce Commission, including not to exceed \$17,000 to print and furnish to the States, at cost, blank annual report forms of common carriers, and the receipts from such sales shall be credited to this appropriation:

Printing and binding-----	\$130, 000	
First Deficiency Appropriation Act 1945-----	45, 000	
		\$175, 000

For deposit in the general fund of the Treasury for cost of penalty mail of the Interstate Commerce Commission as required by section 2 of the act of June 28, 1944:

Penalty mail-----		27, 000
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Salaries and expenses, emergency: For necessary expenses, including traveling expenses, to enable the Interstate Commerce Commission, for the purpose of promoting the national security and defense, to adopt measures for preventing shortages of railroad equipment and congestion of traffic, and expediting the movement of cars by railroads through terminals, and related activities:

National defense-----	\$231, 000	
Joint Resolution 342, Public Law 349-----	24, 000	
		255, 000

Total-----		9, 015, 738
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Amounts obligated under appropriations for the fiscal year ended June 30, 1946:

General-----	\$3, 303, 108
Accounts-----	333, 958
Safety-----	576, 915
Signal safety systems-----	181, 650
Locomotive inspection-----	537, 786
Valuation-----	490, 495
Motor-transport regulation-----	2, 889, 149
Printing and binding-----	162, 382
Penalty mail-----	22, 056
National defense-----	252, 731
Total-----	8, 750, 230

Unobligated balances of appropriations:

General-----	\$112, 292
Accounts-----	66, 042
Safety-----	15, 085
Signal safety systems-----	6, 150
Locomotive inspection-----	5, 814
Valuation-----	3, 824
Motor-transport regulation-----	36, 470
Printing and binding-----	12, 618
Penalty mail-----	4, 944
National defense-----	2, 269
Total-----	265, 508

Total-----	9, 015, 738
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Statement of receipts from fees paid during the fiscal year ended June 30, 1946, as required by section 313 of Public, No. 212, Seventy-second Congress (5 U. S. C. 104a):

Certifying tariffs and records-----	3, 684
Admission of attorneys to practice before executive departments and establishments-----	6, 980

INDEX

	Page
Abandonment of lines:	
Certificates of convenience and necessity.....	61, 152
Employees' interests affected by.....	63
Mileage abandoned.....	61, 152
Accidents and casualties:	
Dangerous articles.....	110
Defective equipment.....	102
Grade crossings, number of.....	107
Investigation of, railroad.....	107
Locomotives, defective.....	88
Mechanical defects.....	51
Number of, railroad.....	48, 146
Prevention measures.....	88
Reports, motor-carrier.....	50, 92
Statistics, railway.....	107
Trespassers.....	49, 146
Accounts:	
Amortization.....	10
Bureau of.....	60
Cases handled under sec. 5.....	94
Investigations of transportation agencies.....	60
Reports under sec. 220.....	93
Section, Bureau of Motor Carriers.....	93
Uniform system.....	60
Acquisition. <i>See</i> Consolidation and control; Convenience and necessity, certificates.	
Administrative Procedure Act:	
Effect upon organization and procedure of Government agencies.....	58
Exemption of Interstate Commerce Commission urged.....	57
Hearings and decisions of Interstate Commerce Commission.....	58
Senate Bill No. 7.....	57
Staff of examiners.....	58
Admission to practice, applications.....	56
Airplanes, war built, adapted to commercial service.....	4
Amendments to the Interstate Commerce Act, recommended.....	120
Amortization.....	10
Appliances. <i>See</i> Safety appliances.	
Appropriations and obligations, statement of, for fiscal year, 1946.....	162
Atlantic Coast Line R. Co.....	22, 62
Automobile cars, supply.....	16
Bankruptcy Act:	
Chapter XV, financial adjustments under, and expiration of provisions.....	24, 26
Procedure modifications necessary.....	26
Section 77, reorganization proceedings.....	21, 24, 161

	Page
Bids, competitive, railroad securities	64
Bonds. <i>See</i> Securities.	
Brokers of motor carrier transportation	46
Bulwinkle Bill	53
Bureaus of Commission. <i>See</i> specific bureaus.	
Bus fares and charges, investigation	45
Car service: <i>See also</i> Equipment.	
Service orders	17, 19, 66
Supply	15, 41
Car-owning companies and protective service	40
Carriers. <i>See</i> specific subjects.	
Carriers Taxing Act	52
Certificates: <i>See also</i> Convenience and necessity, certificates.	
Section, Bureau of Motor Carriers	94
Class I line-haul railways	11
Class-rate and classification investigations	29
Commodities in bulk, water carriers	35
Commodities, percentage increase in rates	28
Compensation. <i>See</i> Reorganization of railroads.	
Competition among carriers	4
Competitive bidding in the sale of railroad securities	64
Complaints:	
Formal, number filed, disposed of	64
Informal cases	65
Investigations	97
Section, Bureau of Motor Carriers	97
Status of complaints and litigation	99
Condensed income account, class I line-haul railways	12
Congress, legislative recommendations	120
Consolidation and control:	
Acquisition of control and authorization, railroads	61, 154
Authorizations under sec. 5 (2) involving—	
Railroad properties	62, 154
Water carriers	155
Controlling persons	62
Employees' interests considered	63
Convenience and necessity, certificates:	
Construction of line	152
Motor carriers	94
Railroad applications	61, 153
Water carrier applications	117
Cooperation, Federal and State commissions	28
Coordination of rail and motor service	43
Courts:	
Cases concluded in District Courts	126
Cases relating to Commission's work	69
Elkins Act cases	124
Hours-of-service cases	105
Indictments returned, and information filed for violations of the Inter- state Commerce Act, part I, and Elkins Act	68, 124
Motor-carrier cases	100
Reorganization plans reviewed	21

Courts—Continued	Page
Summaries showing action taken with respect to orders of Commission and status of pending cases.....	129
Transportation of Explosives Act.....	124
Credit to shippers, unlawful extension.....	67
Dangerous articles: <i>See also</i> Service.	
Accidents due to.....	110
Rail transportation.....	110
Violations of regulations.....	68, 111
Debts of carriers, funded.....	19
Demurrage charges, failure to collect.....	67
Driver fatigue, study of.....	102
Earnings, transport agencies.....	6
Electronics in transportation.....	51
Elkins Act, violations.....	124
Embargoes.....	17, 92, 109
Emergency board under Railway Labor Act.....	2
Emergency service orders. <i>See</i> Service orders.	
Emergency water service.....	34
Employees: <i>See also</i> Hours of service; Safety appliances.	
Protection of interest, approval of railroad consolidations conditioned on.....	63
Railway employment and wages.....	10, 52
Enforcement of criminal and penal provisions of parts I, III, and IV....	65
Equipment: <i>See also</i> Car service; Locomotives; Safety appliances.	
Shortage.....	15
Ex Parte 148 and Ex Parte 162.....	28
Explosives: <i>See also</i> Dangerous articles.	
Section of.....	110
Express rates.....	113
False representations by shippers.....	66
Federal courts. <i>See</i> Courts.	
Fees. <i>See</i> Reorganization of railroads.	
Field organization, Bureau of Motor Carriers.....	103
Field staff investigations.....	109
Finance:	
Bureau of.....	61
Railroad aid, Reconstruction Finance Corporation.....	23, 152
Financial condition of carriers.....	13
Fines and penalties.....	66
Fixed charges, railroads, reorganizations.....	19
Florida East Coast Ry. Co.....	22
Formal Cases, Bureau of.....	64
Fourth-section applications filed and orders made.....	113
Fourth-section rail rates competitive with water rates.....	33
Freight forwarder utilization of motor common carrier services.....	47
Freight-forwarding companies. <i>See</i> Water carrier and freight forwarders.	
Funded debt and fixed interest charges, reduction of.....	19
Government loans to railroads.....	23
Government operation of carriers:	
Capital Transit Co.....	14
Control of railroads.....	2

Government operation of carriers—Continued	Page
Great Lakes Towing Co.....	14
Illinois Central R. Co.....	14
Monongahela Connecting R. Co.....	15
Towing and transportation operations in New York Harbor.....	14
Transportation systems of railroads.....	14
Grade crossings, added and eliminated.....	108
Highways. <i>See</i> Grade crossings; Traffic.	
Hours of service:	
Cases in courts involving railroads.....	105
Drivers, excessive hours and physical fitness.....	101
Reports filed by railroads.....	105
Violations.....	105
House Bills Nos. 2536; 2764; 4779; 4872; 5924; 6386.....	53, 56, 59, 60
Identification plates, motor vehicles.....	96
Increased railway rates, fares, and charges, 1946.....	27
Indictments and information. <i>See</i> Courts.	
Industrial plants, spotting service.....	42
Informal Cases, Bureau of.....	65
Injunction to prevent enforcement of interim order, appealed.....	30
Inquiry, Bureau of.....	65
Inspection, locomotive reports.....	87
Insurance: <i>See also</i> Security for protection.	
Brokers.....	98
Certificates filed.....	98
Freight forwarders, regulation.....	98
Regulations governing motor carriers.....	98
Section, Bureau of Motor Carriers.....	98
Intercity traffic, volume.....	8
Interlocking directorates, rail applications.....	63
Interstate Commerce Act. <i>See also</i> Courts and specific subjects.	
Amendments, recommended.....	59, 120
Violations—	
Part I.....	65, 124
Part II.....	100
Parts III and IV.....	65
Interstate Commerce Commission: <i>See also</i> specific subjects.	
Bureaus. <i>See</i> specific titles.	
Legislative committee, work of.....	59
Legislative recommendations.....	120
Orders and requirements, judicial review. <i>See</i> Courts.	
Orders, emergency service. <i>See</i> Service orders.	
Intrastate rates, investigations of.....	32
Investigations: <i>See also</i> specific subjects.	
Accident.....	89, 107
Bureau of Inquiry.....	65
Class rate and classification.....	29
Effect of war on water carriers.....	5
Instituted on Commission's own motion.....	31, 40, 45, 50
Pick-up and delivery service charges.....	40
Rental charges of refrigerator cars.....	40
Small shipment charges.....	38

Issuance of securities. <i>See</i> Securities.	
Judicial review. <i>See</i> Courts.	
Labor problems and disputes.....	2
Law and Enforcement Section, Bureau of Motor Carriers.....	99
Law, Bureau of.....	69
Laws relating to railroad labor.....	52
Legislative committee, work of.....	59
Legislative recommendations.....	120
Less-than-carload traffic.....	40
Letter, Director of Defense Transportation.....	35
Line-haul railways, class I, condensed income account.....	12
Loans to carriers:	
Reconstruction Finance Corporation approved.....	152
Section 210, Transportation Act, 1920.....	160
Summarization of, by the Reconstruction Finance Corporation.....	23, 152
Locomotive Inspection, Bureau of.....	87
Locomotives: <i>See also</i> Safety appliances.	
Accident prevention.....	88
Alteration reports and specifications.....	91
Casualties caused by failure of locomotive or parts.....	88
Flues, extension of time for removal.....	91
Inspection, percentage defective and total defects.....	88
Maritime Commission. <i>See</i> Water carriers and freight forwarders.	
Marketing of securities.....	64
Medals of honor.....	108
Merger. <i>See</i> Consolidation and control.	
Milling in transit tariffs, violated.....	67
Motor carriers: <i>See also</i> specific subjects.	
Accidents, reports.....	50
Applications for operating rights.....	92
Brokers' licenses.....	46
Bureau of.....	92
Certificates, permits, licenses, registration, temporary authority, exemption, and operations under 2d proviso sec. 206 (a).....	95
Complaints, investigations and litigation.....	99
Equipment replacement.....	4
Exemption applications under sec. 204 (a).....	96
Operating costs.....	4
Schedules filed.....	111
Strikes.....	2
Temporary authority, applications.....	96
Temporary suspension of operation authorized.....	97
Transfer of operating rights.....	96
Uniform system of accounts.....	93
Violations of part II.....	100
Volume of traffic.....	4
Nonobservance of service orders. <i>See</i> Service orders.	
Operating averages, class I steam railways, table.....	13
Operating ratio, railroads.....	10
Operating revenues and expenses of carriers.....	7, 139, 143
Operating rights, transfer or lease of motor.....	96

	Page
Orders of Commission: <i>See also</i> specific subjects.	
Interim, reducing class rates.....	29
Summaries showing action taken with respect to orders of Commission and status of cases pending in courts.....	68
Passengers:	
Fares.....	27
Safety. <i>See</i> Safety.	
Permanent emergency powers recommended.....	122
Pick-up and delivery service.....	40
Pipe lines:	
Intercity traffic.....	8
Volume of traffic.....	5, 150
Postwar conditions, effect on transportation.....	2
Postwar transportation:	
Competition.....	4
Motor carriers of property.....	3
Pipe lines.....	5
Problems of carriers.....	1, 5
Railroads.....	2
Water carriers.....	3
Practice. <i>See</i> Admission to practice; Procedure.	
President of the United States.....	2, 57
Procedure:	
Admission to practice.....	56
Shortened-procedure method.....	65
Production schedules interrupted by strikes.....	2
Progress of railroad reorganizations.....	21
Protective service:	
Car heaters.....	41
Compensation adjusted.....	40
Refrigerator car supply, increased.....	41
Pullman Company.....	6, 37
Rail carriers: <i>See also</i> specific subjects.	
Accidents. <i>See</i> Accidents and casualties.	
Car shortages.....	15
Certificates of convenience and necessity applications.....	61, 152
Installation of electronic devices.....	51
New equipment and schedule adjustments.....	4
Reorganizations.....	21
Strikes.....	2
Tax accruals.....	10
Train communication system.....	52
Violations of part I.....	65, 124
Railroad car shortages. <i>See</i> Rail carriers.	
Railroad control by Government.....	2
Railroad operation and control of motor carriers of property.....	43
Railroad Retirement Act.....	52
Railroad sleeping-car service.....	6, 37
Railroad Unemployment Insurance Act.....	52
Railroads in bankruptcy.....	21, 161
Railway development statistics.....	137

	Page
Railway Express Agency, Inc., cost of operation.....	6
Railway Labor Act.....	52
Railway performance changes, table.....	9
Railways, volume of intercity traffic. <i>See</i> Traffic.	
Rate bureaus and conferences.....	53
Receivers.....	161
Recommendations to Congress. <i>See</i> Congress.	
Reconstruction Finance Corporation Act, loans under.....	23, 152
Reduction of funded debt and fixed interest charges.....	19
Refrigerator car supply.....	41
Regulations governing brokers.....	46
Released rates.....	113
Reorganization of railroads:	
Compensation of trustees and counsel of debtors.....	22
Fixed charges.....	19
Progress, railroads in bankruptcy or receivership.....	21, 161
Railroad companies in reorganization or receivership proceedings.....	161
Voluntary reorganizations.....	24
Reports:	
Accident.....	49
Electric railways.....	151
Locomotive inspection.....	87
Motor carriers.....	147
Pipe-line companies.....	150
Statistics from railroad reports.....	137
Water carriers.....	151
Retirement of debt.....	19
Revenues and expenses. <i>See</i> Operating revenues and expenses of carriers.	
Safety:	
Bureau of.....	103
Electronic devices.....	51
Investigation of accidents.....	101
Section, Bureau of Motor Carriers.....	101
Safety appliances:	
Block-signal system.....	105
Examination of railroad devices.....	108
Signals and train control.....	105
Violations.....	104
Sale of railroad securities.....	64
Schedules:	
Freight forwarders.....	111
Motor carriers.....	111
Published on short notice.....	111
Suspensions. <i>See</i> Suspensions.	
Securities:	
Bids, competitive.....	64, 159
Issuance of and assumption of obligation, by railroad.....	63, 156
Sale of bonds issued under sec. 20a.....	64, 159
Security for protection, insurance or other security.....	98
Senate Bills Nos. 7; 1253; 1537; 2088.....	27, 57, 59, 60

	Page
Service:	
Bureau of.....	109
Car shortages and supply.....	15, 17
Cooperation with Office of Defense Transportation.....	109
Dangerous articles, transportation of, regulated.....	68, 110
Embargoes.....	109
Investigations by agents.....	109
Service orders:	
Box cars for transportation of explosives.....	19
Control of the movement of coal.....	18
Demurrage charges increased.....	18
Embargoes.....	18
Emergency.....	17
Expedited movement of food for foreign relief.....	18
Movement of grain under permit.....	18
Nonobservance.....	66
Railroads required to unload box cars.....	19
Reduction of free time for box cars.....	18
Rerouting of traffic.....	18
Restriction on reconsignment of perishables.....	19
To expedite return of empty refrigerator cars.....	19
Transportation priority.....	18
Unloading of delayed cars.....	18
Violated.....	66
Shortened procedure.....	65
Signals. <i>See</i> Safety appliances.	
Sinking funds.....	19, 25
Sleeping-car service, railroad.....	6, 37
Small shipments by various transportation agencies.....	38
Specification cards and alteration reports.....	91
Spotting services at industrial plants.....	42
Standard Time Act.....	54, 55, 122
Standard time zone investigation.....	54
Statistical measurements of railway performance.....	9
Statistics:	
Accidents on railways.....	146
Carload, trainload, and density of traffic.....	140
Compiled from periodical reports of carriers.....	143
Electric railways.....	151
Equipment of railroads.....	138
Freight forwarders, revenues and expenses.....	149
Freight transportation service.....	140
Fuel, rails, and ties.....	141
Mileage operated and owned by railways.....	137
Motor-carrier reports.....	147
Number and compensation of employees.....	140, 144
Operating averages in freight and passenger service.....	144
Operating revenues and expenses of railways.....	139, 143
Passenger transportation service.....	141
Pipe-line companies.....	150
Private-car owners.....	150

Statistics—Continued	Page
Property investment and income.....	139
Railway capital and net income.....	138
Railway development.....	137
Revenue freight by carload and by commodity.....	145
Summaries and tables.....	137
Water-carrier reports.....	151
Strikes:	
Coastwise and intercoastal water carriers.....	3
Motor carrier transportation affected.....	2
Postwar.....	2
Railroad.....	2
Water carriers.....	3
Suspensions.....	112
Tariffs, Section of.....	111
Temporary authority applications.....	34, 117
Terminal services.....	42
Time:	
Daylight saving.....	54
Legislation recommended.....	56
Standard zone boundaries.....	56
State and municipal regulations.....	54
Traffic:	
Applications to establish released rates.....	113
Bureau of.....	111
Express rates.....	113
Field organization, motor carriers.....	103
Fourth-section applications.....	113
Intercity.....	7
Traffic and earnings of transport agencies.....	6
Train control, automatic.....	105
Transport economics and statistics:	
Bureau of.....	113
Preparation of special analysis and statistical studies relating to transportation.....	115
Reports of carriers.....	114
Studies, statistical and research.....	113, 137
Transportation Act, 1920:	
Deficits under sec. 204.....	24
Loans under sec. 210.....	160
Transportation during the year.....	1
Transportation of Explosives Act, revision recommended.....	122
Transportation problems.....	1
Transportation rates increased by spiral of wages and material prices....	3
Uniform classification of freight.....	30
Valuation:	
Bureau of.....	115
Special work for Office of Defense Transportation.....	116
Volume of intercity traffic, public and private, by kinds of transportation...	8
War Shipping Administration. See Water carriers and freight forwarders.	
Wartime transportation, review of.....	1

	Page
Water carriers and freight forwarders:	
Bureau of-----	116
Forwarders—	
Amendment of sec. 411 (c) recommended-----	120
Applications, filed-----	119
Assembling and distribution rates-----	48
Earnings-----	6
Joint-rate arrangements with motor carriers-----	47
Utilization of motor common carrier services-----	47
Violations of part IV-----	65
Water carriers—	
Applications for certificates and permits-----	117
Coastwise and intercoastal service-----	3, 5, 119
Commodities in bulk-----	35
Competitive rail rates-----	33
Contracts of carriers-----	118
Emergency water service-----	34
Investigation, postwar management-----	36
Labor conditions-----	3
Maritime Commission-----	32, 34
Strikes-----	3
Temporary authority for postwar emergency transportation-----	34, 117
Transportation problems-----	5
Violations of part III-----	65
War Shipping Administration-----	32, 34



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